

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-001**

**A RESOLUTION REAPPOINTING JOHN ROGERS 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 December 13, 2004, and recommended its approval to reappoint JOHN ROGERS to the Airport Advisory Committee.

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

SECTION 1. JOHN ROGERS is hereby reappointed to the Airport Advisory 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 reappointed member of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-002**

**A RESOLUTION REAPPOINTING TAMMY SPILLERS, CAROLINE MITTON,  
CHARLES CHITURAS AND BRAD PITTS TO THE CITIZENS HOUSING &  
COMMUNITY DEVELOPMENT COMMITTEE**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint TAMMY SPILLERS, CAROLINE MITTON, CHARLES CHITURAS and BRAD PITTS to the Citizens Housing & Community Development Committee.

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

SECTION 1. TAMMY SPILLERS, CAROLINE MITTON, CHARLES CHITURAS and BRAD PITTS are hereby reappointed to the Citizens Housing & Community Development Committee with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Citizens Housing & Community Development Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-003**

**A RESOLUTION REAPPOINTING JEFFREY MOUNTAIN, DOUG MOORE  
AND JIM PATTON 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 December 13, 2004, and recommended its approval to reappoint JEFFREY MOUNTAIN, DOUG MOORE and JIM PATTON 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. JEFFREY MOUNTAIN, DOUG MOORE and JIM PATTON are hereby reappointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2009.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Fahr  
JEAN FAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-004**

**A RESOLUTION REAPPOINTING DAVID LOPEZ, LARRY DOVICH, ALAN STRAUS, STEVE OLSON, LLOYD FARIS AND GEORGE SHOEMAKER TO THE COMMUNITY QUALITIES FORUM**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint DAVID LOPEZ, LARRY DOVICH, ALAN STRAUS, STEVE OLSON, LLOYD FARIS and GEORGE SHOEMAKER to the Community Qualities Forum.

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

SECTION 1. DAVID LOPEZ, LARRY DOVICH, ALAN STRAUS, STEVE OLSON, LLOYD FARIS and GEORGE SHOEMAKER are hereby reappointed to the Community Qualities Forum with term expirations of January 1, 2009.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-005**

**A RESOLUTION REAPPOINTING ROBERT MOORE 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 December 13, 2004, and recommended its approval to reappoint ROBERT MOORE to the Disabled Access Appeals Board.

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

SECTION 1. ROBERT MOORE is hereby reappointed to the Disabled Access Appeals Board 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 reappointed member of the Disabled Access Appeals Board, and the Secretary thereof.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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:

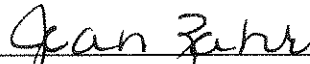
AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-006**

**A RESOLUTION REAPPOINTING ERIC H. BENSON AND ANDREW S.  
MENDLIN TO THE DOWNTOWN IMPROVEMENT DISTRICT**

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 13, 2004, and recommended its approval to reappoint ERIC H. BENSON and ANDREW S. MENDLIN to the Downtown Improvement District.

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

SECTION 1. ERIC H. BENSON and ANDREW S. MENDLIN are hereby reappointed to the Downtown Improvement District with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Downtown Improvement District, and the Secretary thereof.

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 January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-007**

**A RESOLUTION REAPPOINTING JACKIE DEABLER TO THE EQUAL  
OPPORTUNITY/DISABILITY COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint JACKIE DEABLER to the Equal Opportunity/Disability Commission.

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

SECTION 1. JACKIE DEABLER is hereby reappointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2009.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-008**

**A RESOLUTION REAPPOINTING LINDA OHLSON, CARLOS DELA FUENTE  
AND LAURA NORWOOD TO THE HOUSING REHABILITATION LOAN  
COMMITTEE**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint LINDA OHLSON, CARLOS DELA FUENTE and LAURA NORWOOD to the Housing Rehabilitation Loan Committee.

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

SECTION 1. LINDA OHLSON, CARLOS DELA FUENTE and LAURA NORWOOD are hereby reappointed to the Housing Rehabilitation Loan Committee with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

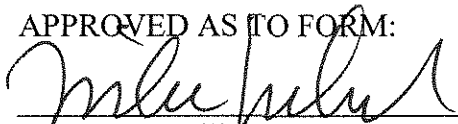
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-009**

**A RESOLUTION REAPPOINTING WILLIAM R. MITCHELL AND JULIUS  
MANRIQUE TO THE LANDMARK PRESERVATION COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint WILLIAM R. MITCHELL and JULIUS MANRIQUE to the Landmark Preservation Commission.

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

SECTION 1. WILLIAM R. MITCHELL and JULIUS MANRIQUE are hereby reappointed to the Landmark Preservation Commission with term expirations of January 1, 2009.

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 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-010**

**A RESOLUTION REAPPOINTING KENT NEWSWANDER TO THE  
PLANNING COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 13, 2004, and recommended its approval to reappoint KENT NEWSWANDER to the Planning Commission.

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

SECTION 1. KENT NEWSWANDER is hereby reappointed to the Planning Commission with a term expiration of January 1, 2009.

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


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Milich, City Attorney

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-011**

**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. 6)**

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 is higher in Tax Zone #2, 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, the territory to be annexed will be subject to the tax rates in 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 “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and

Community Facilities Districts, at Page 99; and the map entitled “Annexation Map No. 5 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 2.

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. 5 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California,” on file in the office of the City Clerk, hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Creation of Tax Zone #2. . It is intended that the special taxes set forth in Tax Zone #2 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, January 4, 2005, 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 4<sup>th</sup> day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

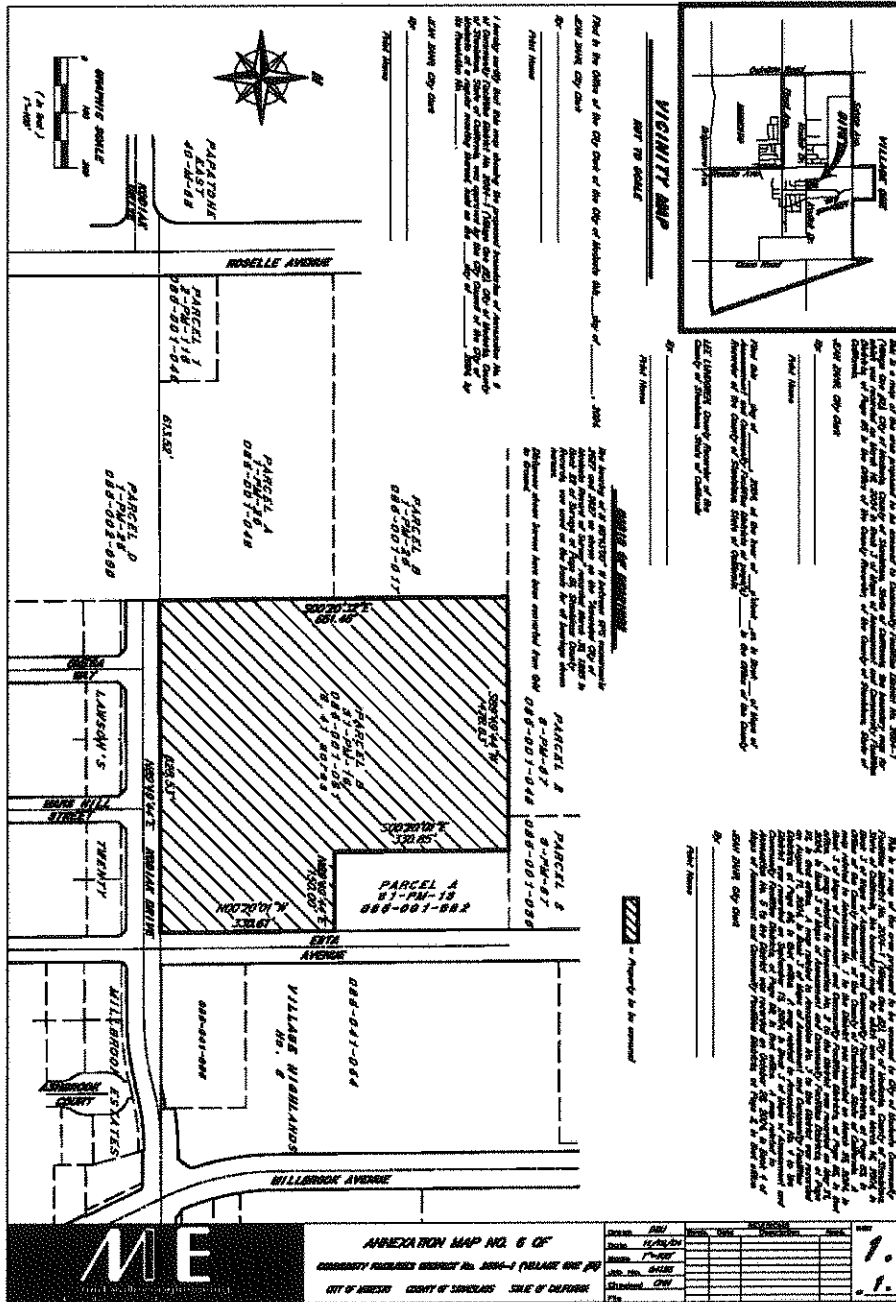
ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**ANNEXATION NO. 6 TO**  
**COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)**





**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-012**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND AMERICAN HOME BUILDERS, INC. FOR IMPROVEMENTS ON FLOYD AVENUE (PORTION OF ROSELLE TO MILLBROOK) AND ROSELLE AVENUE (PORTION OF FLOYD TO SYLVAN) AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No. 90020181), WITH AN ADDENDUM FOR THE SHADOW CREEK APARTMENTS MULTI-FAMILY FINAL DEVELOPMENT PLAN (EA/C&ED NO. 2004-20)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, American Home Builders, Inc. ("Developer") has agreed to install certain improvements on Floyd Avenue (portion of Roselle to Millbrook) and on Roselle Avenue (portion of Floyd to Sylvan), and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("agreement") between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$164,662.00, and

WHEREAS, the City Council has received and considered the Initial Study, Environmental Assessment No. EA/C&ED No. 2004-20, which concludes that Developer's project entitled Shadow Creek Apartments Multi-Family Final Development Plan, 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 modified by the 1994 Final Supplemental EIR (SCH No. 90020181), with an Addendum for the Shadow Creek Apartments Multi-Family Final Development Plan (EA/C&ED No. 2004-20), 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 American Home Builders, Inc. ("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 Initial Study, Environmental Assessment EA/C&ED No. 2004-20, provides the substantial evidence to support findings 1-5, above.

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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-013**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT FOR AUDIT SERVICES WITH MAZE & ASSOCIATES AT A COST NOT TO EXCEED \$5,263 FOR EXTRA 2004 AUDIT WORK, \$21,058 FOR EXTRA 2005 AUDIT WORK, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.**

WHEREAS, at its April 1, 2003, meeting the Modesto City Council adopted Resolution 2003-164 approving execution of a contract with Maze & Associates to perform the City's annual financial audits, and

WHEREAS, the City Manager executed said contract on behalf of the City of Modesto, and

WHEREAS, the audit firm was required as part of its work to perform additional work for the 2004 Single Audit that was outside the scope of the original contract, at a price not to exceed \$5,263, and

WHEREAS, it is anticipated that additional audit services will be required in Fiscal Year 2005 for two additional federal programs and for three additional Community Facilities Districts, at respective additional annual costs of \$10,852 and \$10,206, and

WHEREAS, the contract for these audit services requires Modesto City Council approval for such additional work, and

WHEREAS, at its November 22, 2004, meeting the Audit Committee recommended that the Council approve payment for the additional work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the contract for audit services with Maze & Associates, authorizing the additional work proposed, at a cost not to exceed \$5,263 for Fiscal Year 2004, and, \$21,058 for 2005.

BE IT FURTHER RESOLVED that the Acting 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 4<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-014**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING FOR PRELIMINARY WORK TO ASSIST IN THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED ROSELLE NEIGHBORHOOD SPECIFIC PLAN PROJECT/ VINTNERS SQUARE SHOPPING CENTER, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$68,839.00**

WHEREAS, Dave Romano, P.E./AICP, of Russell A. Newman P.L.C., has applied for a specific plan, referred to as the Roselle Neighborhood Specific Plan, to allow for the orderly and future development within the approximate 460-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 Roselle Neighborhood Specific Plan will also involve the following associated entitlements: rezoning to a Specific Plan-Overlay (SP-O) zone; annexation; a general plan amendment to 1) reclassify Claratina Avenue from a 4-lane expressway to a 6-lane Principal Arterial, and 2) change the general plan land use designation from Village Residential (VR) to Regional Commercial (RC) for a 78 acre site located at the southeast corner of the future intersection of Claratina Avenue and Oakdale Road; preparation of a Facilities Master Plan and associated Finance plan, formation of a capital facilities district (CFD) and a conditional use permit for a 700,000 square foot regional commercial center, referred to as Vintners Square, on a 78 acre site located at the southeast corner of the future intersection of Claratina Avenue and Oakdale Road, 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 Roselle Neighborhood 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, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting to prepare the environmental impact report for the Roselle Neighborhood Specific Plan because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City Staff anticipates that the EIR work will involve two contract phases, the first phase being the current contract for preliminary work leading to the EIR in an amount not to exceed \$68,839, and

WHEREAS, City staff will be returning to Council for contract amendments for the second phase of work for preparation of the Draft EIR and Final EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Turnstone Consulting for preliminary work to assist in the preparation of an environmental impact report for the proposed Roselle Neighborhood Specific Plan/Vintners Square Development is hereby approved in an amount not to exceed 68,839.00.



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

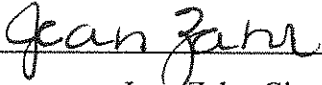
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of January, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

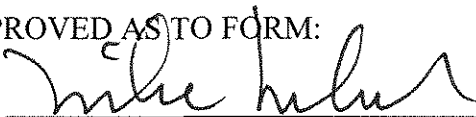
ATTEST

  
Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-015**

**A RESOLUTION APPROVING THE ALLOCATION OF \$68,791 FROM FISCAL YEAR 2004-2005 HOME CHDO OPERATING FUND TO HABITAT FOR HUMANITY, STANISLAUS; APPROVING THE ALLOCATION OF \$206,372 FROM FISCAL YEAR 2004-2005 HOME CHDO SET-ASIDE FUND TO HABITAT FOR HUMANITY, STANISLAUS, PENDING STAFF AND THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE'S APPROVAL OF THE REVISED PROPOSAL TO BE SUBMITTED BY HABITAT FOR HUMANITY, STANISLAUS.**

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; 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; Community Housing Development Organizations (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, inasmuch as the federal HOME program provides these funds, all funding recipients will be governed by HOME regulations, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the Modesto City Council approved a loan of \$1,030,791 in HOME funds to the Housing Authority of Stanislaus County for the Village One project located at the corner of Belharbour and Roselle, and

WHEREAS, the Modesto City Council also authorized staff to send a letter to the three active and approved Community Housing Development Organizations (CHDOs)

and invite them to submit a letter of interest if they are interested to apply for these funds,  
and

WHEREAS, on October 28, 2004, a request for "Letters of Interest" was sent; Habitat for Humanity, Stanislaus, was the only CHDO who submitted a "Letter of Interest," and

WHEREAS, according to the "Letter of Interest," Habitat for Humanity will use the CHDO Operating Fund to fund the following eligible operational costs: organizational support, housing education, administrative expenses, and operating expenses, and

WHEREAS, in addition, Habitat for Humanity briefly listed one potential project for the CHDO Set-Aside Fund and has verbally discussed several other possibilities, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on December 17, 2004, and accepted staff's recommendation on the allocation of \$68,791 in CHDO Operating Fund to Habitat for Humanity, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) also accepted staff's recommendation to continue to work with Habitat for Humanity to clarify the proposed scope of the CHDO Set-Aside fund in the amount of \$206,372,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to allocate \$68,791 in Community Housing Development Organization (CHDO) Operating Fund to Habitat for Humanity, Stanislaus.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to allocate \$206,372 in Community Housing Development Organization (CHDO) Set-Aside Fund to Habitat for Humanity, Stanislaus, if the revised proposal is in compliance with the HOME regulations, and staff and the CH&CDC approve the revised proposal.

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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-016**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 OPERATING  
BUDGET TO REFLECT REVENUES AND APPROPRIATIONS FOR HOME  
FUND CARRYOVER AMOUNTS FROM PRIOR YEAR.**

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; Community Housing Development Organizations (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, inasmuch as the federal HOME program provides these funds, all funding recipients will be governed by HOME regulations, and

WHEREAS, staff is recommending allocating \$68,791 in CHDO Operating Fund to Habitat for Humanity, and

WHEREAS, staff is recommending allocating \$206,372 from the HOME CHDO Set-Aside Fund to Habitat for Humanity, Stanislaus, pending staff and Citizens Housing and Community Development Committee's approval of the revised proposal to be submitted by Habitat for Humanity, Stanislaus, and

WHEREAS, the Community Housing and Development Committee (CH&CDC) met on December 17, 2004, and accepted staff's recommendations to allocate \$68,791 from the HOME CHDO Operating Fund to Habitat for Humanity, Stanislaus, and

WHEREAS, the CH&CDC also accepted staff's recommendations to continue to work with Habitat for Humanity to clarify the proposed scope of the CHDO Set-Aside fund in the amount of \$206,372, and

WHEREAS, funding is available from prior years' HOME Fund Carryover, and, in order to make these funds available, they need to be transferred into operating accounts, and

WHEREAS, these changes, and remaining prior years' carryover funds currently not allocated for any specific projects, are shown on **Exhibit "A"**, attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2004-2005 Operating Budget is hereby amended to reflect adjustments to the HOME Funds as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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

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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahir  
JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu  
 Telephone No.: 571-5506  
 Department: Parks, Recreation & Neighborhoods

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

Fund Title: HOME Fund 1170

FY: 2004 - 2005  
 Transfer No. \_\_\_\_\_

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

1170-320-3259- 3512	na	1,030,791	471,381	1,502,172	HOME Carryover
1170-320-3259- 3517	na	1,238,235	0	1,238,235	HOME Entitlement
1170-320-3259- 6310	na	100,000	0	100,000	Direct Loan Principal - Prog Income
		<b>2,369,026</b>	<b>471,381</b>	<b>2,840,407</b>	<b>Grand Total</b>

**APPROPRIATIONS**

1170-320-3259- 0235	3259C	1,000	20	1,020	Services, Professional and Others
1170-320-3259- 0255	3259C	6,281	0	6,281	Services City Forces
1170-320-3259- 0497	3259C	2,061,582	5,187	2,066,769	Direct Loans
1170-320-3259- 0508	3259C	206,373	457,505	663,878	CHDO (15% of Entitlement)
1170-320-3259- 0509	3259C	68,791	8,668	77,459	CHDO Operating (5% of Entitlement)
1170-320-3259- 0510	3259C	25,000	0	25,000	Tenant Based Rental Assistance (TBR)
		<b>2,369,027</b>	<b>471,380</b>	<b>2,840,407</b>	<b>Total</b>
		<b>2,369,027</b>	<b>471,380</b>	<b>2,840,407</b>	<b>Grand Total</b>

**COMMENTS/JUSTIFICATION**

Adjustments required to reflect carryover from prior years' HOME funds.

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)		



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-017**

**A RESOLUTION APPROVING A HOUSING MAINTENANCE PROGRAM (HMP) LOAN FROM MARY G. PEREZ, SECURED BY HER PROPERTY AT 1701 CONNIE WAY, MODESTO, IN THE AMOUNT OF \$117,075.10, WITH A 3%, 50-YEAR DEFERRED PAYMENT LOAN, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the City of Modesto has a Housing Maintenance Program (HMP) funded through Federal Community Development Block Grant (CDBG) and proceeds from previous loans, and

WHEREAS, the City Council must approve all loans under this program for over \$60,000, and

WHEREAS, staff recommends approving a loan to Mary G. Perez, secured by her property at 1701 Connie Way, Modesto, in the amount of \$117,075.10, with a 3%, 50-year deferred payment loan, and

WHEREAS, this property is located in the Airport Neighborhood which is a voluntary target area, and owners who wish to participate in our program undergo a housing inspection and if they wish to participate in our program, they are required to bring their home up to code, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on December 16, 2004, and supported and recommended the loan amount and terms,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request for a Housing Maintenance Program (HMP) loan to Mary G. Perez, secured by her property at 1701 Connie Way, Modesto, in the amount of \$117,075.10.

BE IT FURTHER RESOLVED that the recommendation for terms of 3% for a 50-year deferred payment loan is hereby approved.

BE IT FURTHER RESOLVED that the Acting 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 January, 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Fahr  
JEAN LAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-018**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO BROWN AND CALDWELL, FOR \$548,922 TO COMPLETE DESIGN SERVICES FOR THE DISSOLVED AIR FLOTATION FACILITY PROJECT, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto operates and maintains a secondary treatment system at 7007 Jennings Road, and

WHEREAS, during the late fall, winter, and early spring months discharge to the San Joaquin River is allowed if the treated wastewater is of adequate quality, and

WHEREAS, the Dissolved Air Flotation (DAF) clarifier is the technology chosen to resolve effluent disposal limitations, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to approximately one hundred and twenty-three (123) engineering firms, seven Statements of Qualifications were received, and four firms were short listed for Proposals and Interviews, and

WHEREAS, Brown and Caldwell was deemed most qualified and was selected for engineering design services for the DAF project, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with Brown and Caldwell to complete the Design Services for the Dissolved Air Flotation Facility in an amount not to exceed \$548,922,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to complete the Design Services for the Dissolved Air Flotation Facility in an amount not to exceed \$548,922,

BE IT FURTHER RESOLVED that the Acting 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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-019**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET RETURNING \$105,000 TO RESERVES FROM ACCOUNT ENGINEERING SYSTEMS ANALYSIS 6210-430-A209; A REAPPROPRIATION OF \$105,000 FROM RESERVES TO ACCOUNT 6210-430-A215 DISSOLVED AIR FLOTATION; FUND TRANSFER OF \$55,000 FROM ACCOUNT 6210-480-5213 WATER TREATMENT SECONDARY; AND A FUND TRANSFER OF \$50,000 FROM ACCOUNT 6210-480-5214 WATER TREATMENT PRIMARY TO FULLY FUND A CONTRACT WITH BROWN AND CALDWELL FOR DESIGN SERVICES FOR A DISSOLVED AIR FLOTATION FACILITY PROJECT**

WHEREAS, the Dissolved Air Flotation account 6210-430-A215 only provides \$395,600 of the Brown and Caldwell design consultant contract in the amount of \$548,922, and

WHEREAS, certain budgetary transactions are necessary to fully fund said contract, and

WHEREAS, \$105,000 is to be transferred to reserves from Engineering Systems Analysis account 6210-430-A209, and

WHEREAS, \$105,000 is to be transferred from reserves to the Dissolved Air Flotation account 6210-430-A215, and

WHEREAS, \$50,000 is to be transferred from Water Quality Control Center's operation and maintenance account 6210-480-5214-0210, and

WHEREAS, \$25,000 is to be transferred from Water Quality Control Center's operation and maintenance account 6210-480-5213-0312, and

WHEREAS, \$5,000 is to be transferred from Water Quality Control Center's operation and maintenance account 6210-480-5213-0235, and

WHEREAS, \$25,000 is to be transferred from Water Quality Control Center's operation and maintenance account 6210-480-5213-0210.

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 Brown and Caldwell design services contract for the Dissolved Air Flotation Facility project.

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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-020**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$724,000.00 CONTRACT WITH SOARES PIPELINE, INC., FOR THE PROJECT TITLED, "ANNUAL SEWER REHABILITATION 2004," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED COST OF THIS PROJECT IS \$854,320.00**

WHEREAS, the bids received for Annual Sewer Rehabilitation 2004 were opened at 11:00 a.m. on December 7, 2004, 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 \$724,000 received from Soares Pipeline, Inc., be accepted as the lowest responsible bid and the contract be awarded to Soares Pipeline, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Soares Pipeline, Inc., in the amount of \$724,000, and hereby awards Soares Pipeline, Inc., the contract titled "Annual Sewer Rehabilitation 2004."

BE IT FURTHER RESOLVED that the Acting 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 4<sup>th</sup> day of January, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-021**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET TO ESTABLISH THE NEW ACCOUNT 6210-430-B627 ANNUAL SEWER REHABILITATION 2004 PROJECT, FUNDED BY \$666,800 FROM OPERATING ACCOUNT 6210-480-5224-0235; RETURNING \$86,500 TO THE WASTEWATER CONTINGENCY RESERVES ACCOUNT 6210-800-8000-8003 AND CLOSING ACCOUNT 6210-480-Q234; A REAPPROPRIATION OF \$187,520 FROM RESERVES TO ACCOUNT 6210-430-B627 - ANNUAL SEWER REHABILITATION 2004 TO FULLY FUND A CONTRACT WITH SOARES PIPELINE, INC., FOR THE CONSTRUCTION OF ANNUAL SEWER REHABILITATION 2004**

WHEREAS, a new Capital Improvement account 6210-430-B627 for the Annual Sewer Rehabilitation 2004 project is needed to be established, and

WHEREAS, certain budgetary transactions are necessary to fully fund said contract, and

WHEREAS, \$666,800 is to be transferred from the Wastewater Annual Sewer Rehabilitation operating and maintenance account 6210-480-5224-0235, and

WHEREAS, \$86,500 is to be transferred to reserves from closing the Replace/Rehab Brick Manhole account 6210-480-Q234, and

WHEREAS, \$187,520 is to be transferred from Reserves 6210-800-8000-8003 to the new Annual Sewer Rehabilitation 2004 account 6210-430-B627.

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 \$724,000 contract with Soares Pipeline, Inc., for the Annual Sewer Rehabilitation 2004 project.

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 January, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-022**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO KIMLEY-HORN AND ASSOCIATES, INC., FOR \$236,858.15 TO COMPLETE DESIGN SERVICES FOR THE PEDESTRIAN OVERCROSSING OF SYLVAN AVENUE AT MILLBROOK AVENUE PROJECT, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT**

WHEREAS, the Village One Facilities Master Plan contains a prioritization list for construction projects to be funded by the Village One Community Facilities District, and

WHEREAS, the Pedestrian Overcrossing of Sylvan Avenue at Millbrook Avenue project is identified on the prioritization list as a Priority 1 project, and

WHEREAS, the City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to all engineering firms that had previously indicated an interest in providing this type of service, seventeen statements of qualifications were received for the Pedestrian Overcrossing of Sylvan Avenue at Millbrook Avenue project, and

WHEREAS, the City's Selection Committee short listed four of the seventeen firms that submitted a statement of qualifications and sent those firms a Request for Proposal, and

WHEREAS, each of the short-listed firms that were sent a Request for Proposal submitted a proposal for services, and

WHEREAS, each of the short listed firms that were sent a Request for Proposal submitted a proposal for services and were interviewed by the City's Selection Committee, and

WHEREAS, the City's Selection Committee deemed that Kimley-Horn and Associates, Inc., is the most qualified to provide the engineering design services for the Pedestrian Overcrossing of Sylvan Avenue at Millbrook Avenue project, and

WHEREAS, the Public Works Director and the Community Facilities District Administrator has recommended accepting the proposed agreement with Kimley-Horn and Associates, Inc., to complete the Design Services for the Pedestrian Overcrossing of Sylvan Avenue at Millbrook Avenue in an amount not to exceed \$236,858.15,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Kimley-Horn and Associates, Inc., to complete the Design Services for the Pedestrian Overcrossing Of Sylvan Avenue At Millbrook Avenue in an amount not to exceed \$236,858.15,

BE IT FURTHER RESOLVED that the Community Facilities 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 4<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-023**

**RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE "INSTALLATION OF CLOSED CIRCUIT TELEVISION CAMERAS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$1,178,156.63 PER THE CONTRACT. TOTAL PROJECT COST IS \$1,344,969.10**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Closed Circuit Television Cameras" has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated November 20, 2001.

NOW, THEREFORE, BE IT RESOLVED that the "Installation of Closed Circuit Television Cameras" project be accepted from said contractor, Collins Electrical Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,178,156.63 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 4<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 024**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR PROPOSALS (RFP) FOR  
ARMED/UNIFORMED SECURITY GUARD SERVICES FOR AN INITIAL TWO  
YEAR PERIOD, WITH THREE (3), ONE-YEAR CONTRACT EXTENSION  
OPTIONS FOR AN ESTIMATED ANNUAL COST OF \$425,000**

WHEREAS, the Public Works Department, Modesto City- County Airport, and the Parks, Recreation, and Neighborhoods Departments have requested the purchase of armed/uniformed security guard services for an initial two-years, with three one-year contract extension options for an estimate annual fiscal year total cost of \$425,000, and

WHEREAS, armed/uniformed security guard services are used at the following locations: Wastewater Treatment Plant (WQC, Sutter Avenue Facility, Transportation Center, Modesto City- County Airport, Bus Yard Facility, Amtrak Station, 1010 10<sup>TH</sup> Street (TSP), 9<sup>TH</sup>, 10<sup>TH</sup> and 11<sup>th</sup> Street Parking Garages, American Legion Hall, and other locations as needed, and

WHEREAS, uniformed security guards at the Water Quality Control Plant ensure enforcement of “no trespassing” and “authorized personnel” only policies, provide for additional safety and security for shift operators, provide greater security of critical areas such as the main building which houses wastewater operations, the laboratory and industrial waste buildings and at the two maintenance shops and the administration buildings, and

WHEREAS, these buildings contain equipment that is critical to the successful operation of the Wastewater facility, and

WHEREAS, uniformed security guard service at the Transportation Centers helps deter vandalism and break-ins at the transportation center, and



WHEREAS, the security guard firm provides a first response to security alarm calls, thereby saving the Police Department from having to investigate what often turn out to be false alarms, and

WHEREAS, from it's opening, the Transportation Center Transit office contracted with the Modesto Police Department for security support during the peak mid-day /afternoon travel period; later, with a growth in transit ridership, similar security support using a less expensive guard service was added during the morning period, and

WHEREAS, this service has reduced the number of rider and vandalism incidents previously experienced during the early and mid morning periods, and

WHEREAS, in addition, during the late night period when the City and County transit operations are closed, security guard service is shared with the 9<sup>th</sup> Street garage, and

WHEREAS, the assigned guard makes periodic walking patrols throughout the Transportation Center grounds and buildings, and

WHEREAS, this service also supports, Greyhound's 24 hours, seven days a week bus operations, and

WHEREAS, uniformed security guards service at the Modesto-County Airport patrol in the parking lots, building areas of the air carrier, general aviation sides of the airport, and perimeter fencing areas, and

WHEREAS, additionally, the guard patrols the passenger terminal including visual observation of the aircraft and aircraft parking aprons on both sides of the airport, and

WHEREAS, the Bus Maintenance facility requires armed uniformed security guard services to provide security to employees collecting the money received from bus fares, and

WHEREAS, when buses return to the yard in the evening, fare boxes are removed from the buses and the resulting tickets and cash receipts are consolidated, with cash and coins, and then delivered to the bank, and

WHEREAS, having an on-site armed-security guard during this transfer period is a positive and widely accepted business practice in the transit industry, and to date, there has been no security incident with this critical operation, and

WHEREAS, uniformed security guards at the Amtrak Station will provide enforcement of the no loitering laws and added security to the Amtrak Station, and

WHEREAS, based on its remote location and early security issues that occurred at the station after opening in 1999, two types of security guard service have proved to be an effective and efficient use of resources, and earlier problems with vehicles break-ins and vandalism have been significantly reduced after this service was added, and

WHEREAS, during peak holiday travel periods (Christmas/New Year, Thanksgiving, Memorial Day, 4<sup>th</sup> of July, and Labor Day, on site guard services are provided from station closing (10:00P.M.) to station opening (7:00 A.M.), and

WHEREAS, for other times of the year when the station is closed, a “pass through” patrol made 4 to 5 unscheduled vehicle and walking passes through the station, and

WHEREAS, the Federal Transit Administration requires transit agencies to spend a minimum of 1% of their annual FTA allocation on security projects, and

WHEREAS, the amount spent annually for FTA allocation is \$33,620.00 or 1%, and if the City does not meet this requirement, it must formally certify that there is no need for transit security, and

WHEREAS, a portion of the rent paid by the County and Greyhound for use of the Transportation Center is used to offset City-provided security guard services at the Transportation Center, and

WHEREAS, uniformed security guard service at 1010 Tenth Street (TSP) performs many functions, from escorting City employees to their cars after hours to patrolling the plaza during the evenings and weekends, monitoring visitors in the lobby, and monitoring cameras mounted inside and outside the building and garage, and

WHEREAS, security guards carry police radios to expedite MPD responses to an emergency in the plaza or building, and

WHEREAS, another function of the security guards service is to monitor the police or sheriff officer assigned to the chamber during City Council and County Supervisors meetings, and

WHEREAS, guards patrol our building and plaza to ensure we are working in a safe and protected environment, and

WHEREAS, they help with the removal of citizens who are panhandling or are a disruptive influence in the Plaza, and

WHEREAS, the 9<sup>th</sup> Street Parking Garage uniformed security guard service provides a roving patrol officer who monitors activity in the parking garage, and

WHEREAS, this officer interacts with customers, parking garage attendants, other security officers and MPD as necessary, and

WHEREAS, uniformed security guards are responsible for conducting continuous rounds and inspections of the parking garage during prescribed hours, and communicating with others members of the security team and MPD as necessary, and

WHEREAS, uniformed security guard services at the 10<sup>th</sup> and 11<sup>th</sup> Street parking garages provide the downtown parking garages with a roving patrol officer who monitors activity in the parking garages, and

WHEREAS, this officer interacts with customers, parking garage attendants and MPD as necessary, and

WHEREAS, uniformed security guards will be required at the American Legion Hall on an as needed basis, and

WHEREAS, the Hall is rented every weekend, and depending on the size of the group renting the hall, security guards needed may vary from two (2) to eight (8) security guards, and

WHEREAS, the Parks, Recreation and Neighborhoods (PR&N) Department requires renters at American Legion Hall to provide security guards for their events in a number determined by the Modesto Police Department on an event-by-event basis, and

WHEREAS, currently, the renters contract directly with the guard services, so there are no expenditures or revenues to Parks, Recreation, and Neighborhoods Department, and

WHEREAS, when the contract services are awarded, PR&N will establish expenditures and revenues lines and will estimate both at that time, and

WHEREAS, by soliciting formal proposals for armed/uniformed security guard services, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

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 Proposals for armed/uniformed security guard services for an initial two-year period, with three one-year contract extension options for an estimated annual cost of \$425,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal proposals for the purchase of armed/uniformed security guard services to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, a committee comprised of representatives from various different City departments, along with a Councilmember observer, will evaluate the proposals based on criteria other than cost. The committee will make a recommendation to award based on the highest ranking in the total evaluation criteria. The recommendation to award will then be submitted to Council.

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 January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-025**

**A RESOLUTION DESIGNATING COUNCILMEMBER JACKMAN 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 Jackman 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 4<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CITY OF MODESTO  
RESOLUTION NO. 2005 - 026**

**A RESOLUTION APPROVING THE DEVELOPMENT PROCESS  
IMPROVEMENT PROGRAM ACTION PLAN FOR THE CITY OF MODESTO**

WHEREAS, in April of 2004 the City Manager initiated a Development Process Improvement Program in response to concerns raised by the City Council regarding the City's development review processes, and

WHEREAS, to facilitate the program an interdepartmental Process Improvement Task Force (PITF) was formed responsible for conducting a thorough evaluation of the current planning, building, engineering and landscape permit and plan approval processes, and

WHEREAS, this evaluation included reviewing the recommendations and actions taken in response to the Citygate Performance Review completed for the Planning and Building Divisions in 2001, completing detailed process mapping for all departments, conducting a storm water plan and inspection case study with Building and Public Works, distributing a customer survey to past clients, completing an initial evaluation of planning entitlement building permit processes, and presenting three detailed case studies to the Ad Hoc Development Review Task Force, and

WHEREAS, on October 11, 2004, the PITF made a presentation to the Economic Development Committee on the Task Force's preliminary findings and conclusions, which identified the need to: enhance processes, systems and technology for more effective communication, coordination and decision-making; centralize information through the use of technology to track parallel activities and plan checks; establish uniform policies for application of standard specifications; standardize all application and



plan submittal requirements, and improve interdepartmental project condition referral and implementation processes; and

WHEREAS, to guarantee results from this effort over the long term, the PITF has developed an overall Action Plan (**Exhibit "A"**), which identifies deliverables that can be completed with existing staff resources within the current fiscal year and deliverables deferred to FY 05/06 that will require commitment of additional resources, and

WHEREAS, the PITF is requesting City Council approval of the proposed Action Plan to ensure staff is implementing measures consistent with Council expectations and policy, and

WHEREAS, at their meeting of December 13, 2004, the Economic Development Committee approved the proposed Action Plan and recommended forwarding it on to the full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the Development Process Improvement Program Action Plan, a copy of which is attached 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 4<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**City of Modesto**  
**Development Process Improvement Program Action Plan**  
**January 4, 2005**

**Mission**

To increase the productivity, effectiveness and customer service quality of the City's Development Review Process by enhancing communication and collaboration between City departments"

**Process Improvement Activities to Date**

- Formed **Process Improvement Task Force**, conducted weekly meetings since June 2004 to provide forum for interdepartmental communication and problem solving on agency-wide application processing issues.
- First meeting of **Interdepartmental Project Team** held on November 15, 2004 for large-scale specific plans and master plans.
- Formed **City/County Development Process Review Team**, conducting twice monthly meetings since September 24, 2004.
- Participated in the **Ad Hoc Development Review Task Force**, including presenting three detailed case studies to the task force and received input on system enhancements.
- Conducted storm water plan and inspection case study with Building and PW.
- Completed process mapping for all departments.
- Distributed customer survey.
- Completed initial evaluation of building permit process.

**FY 04-05 Action Plan (based on use of existing resources, unless noted otherwise)**

- **Improve Project Tracking Processes:** enhance interdepartmental communication and coordination through the use of technology (Tidemark System upgrades) and ongoing quality management assessment. Finalize Process Maps for each component of the planning and plan check review and permit inspection processes. Proposed Tidemark enhancements include:
  - Setting up individual department single line activities for submittals and resubmittals to allow status reporting for each permit.
  - Expand use of, and training for, Tidemark by all staff involved in development review process.
  - Attachment of individual department plan review comments and notes to single permit file to facilitate interdepartmental plan/permit tracking and communication and to provide a quality and consistent overall plan review.
- **Improve Building Plan and Permit Intake Process:** maximize use of the "One-Stop Shop"; determine feasibility of Building intake of PW, Fire and PR&N plans and permits at CEDD counter.
- **Revise Building and Planning Application and Plan Forms and Submittal Requirements:** consolidate department submittal requirements; strengthen submittal requirements to minimize requests for additional information or studies later in the review process.
- **Reorganize the Development Review Team (may require additional PW staff):** make the development review process more transparent and predictable by requiring specific deadlines for submittal of conditions; clarifying standard conditions and specifications; establishing a process for rapid issue resolution; empowering staff assigned to DRT to make decisions; forwarding draft conditions to applicant for review; and including the applicant in DRT review of final draft conditions.
- **Update and Revise Standard Conditions:** redraft application conditions so that sufficient detail is included to provide adequate guidance on who, what, where and how

conditions are to be implemented at the building permit, improvement plan and final map stages.

- **Mandatory Pre-application Conference:** institute mandatory pre-applications for certain classifications of Planning and Building projects.
- **Adopt Citywide Development Review Mission Statement and Goals:** enhance customer service and program effectiveness by adopting a citywide mission statement and goals, including effective performance measures; to ensure uniform and congruent departmental processing priorities and objectives, priorities and that these objectives are aligned with Council and management expectations
- **Reestablish the Construction Industry Liaison Committee:** improve communication between the City and building industry and facilitate public/private cooperation in the ongoing evaluation and improvement of the City's development review process.
- **Establish Development Center Website:** create a single portal on the City's Website to facilitate public access to all development related activities and information.
- **Improve the City/County Sphere of Influence Project Referral and Review Process:** conduct an interagency evaluation of current development standards, processes, regulations and fees; determine feasibility of adopting uniform development standards and guidelines for projects in the sphere of influence.

**FY 05-06 Action Plan (additional resources required)**

- **Ensure Effective Development Review Process Fiscal Administration:** annually review and make adjustments in cost-for-service fees (planning, engineering, building), improve project cost accounting system, including financial reporting to applicants on time and material projects.
- **Strengthen Customer Knowledge of City Development Review Process:** strengthen customer knowledge and understanding of, and changes in, the City's development permit process by developing flowcharts, brochures, and fact-sheets and distribution of newsletters, emails, bulletins, and flyers.
- **Improve Issue Resolution Process:** create a DRT organizational chart to assist applicants and staff in identifying who is responsible for resolving policy issues.
- **Establish Uniform Policies for Application of Standard Specifications:** create design exception process for application of City standard specifications to assist applicants and staff in resolving design disagreements.
- **Provide Customer Service Training for Staff:** design a customer service program specifically oriented to the development review process, focusing on the unique needs of the development community, particularly in regards to the time and cost associated with development projects.
- **Create a Development Review Process Interdepartmental Cross-training Program:** enhance City staff understanding of the overall permit process and their role and responsibilities through continuous cross training.
- **Enhance Staff Technical Skills:** to enhance service and effectiveness of staff provide continuous technical skills training.
- **Internet Applicant Project Tracking Program:** Provide applicants the ability to monitor project activity through use of Tidemark and the Internet.
- **Update Zoning Codes and Regulations:** update codes to reflect changes in City land use and building design.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005- 027**

**A RESOLUTION DECLARING THE CORNER OF ELM STREET AND  
ESCAMILLA AVENUE IN SALIDA, CALIFORNIA (ASSESSOR'S PARCEL  
NUMBER: 135-004-045) AS EXCESS LAND TO THE CITY'S NEEDS AND  
AUTHORIZING THE ACTING CITY MANAGER TO TAKE ALL  
APPROPRIATE ACTIONS TO COMPLETE THE SALE OF SAID PARCEL.**

WHEREAS, the City of Modesto currently owns a parcel of land at the corner of Elm Street and Escamilla Avenue in Salida, California which is more particularly described as Assessor's Parcel Number 135-004-045 and which is shown on the map in "EXHIBIT A" which is attached hereto and made a part herein by this reference, and

WHEREAS, said parcel was the site of a former City water well which has been sealed and abandoned and is now excess to the City's needs, and

WHEREAS, if the City retains this parcel, it must be maintained by the City at City expense.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares that the parcel at the corner of Elm Street and Escamilla Avenue in Salida, California which is more particularly described as Assessor's Parcel Number 135-004-045 is excess property to the City's needs.

BE IT FURTHER RESOLVED that the Acting City Manager is hereby authorized to take appropriate actions and execute all required documents to complete the sale and transfer of said parcel to qualified buyers in accordance with the Government Code of the State of California.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

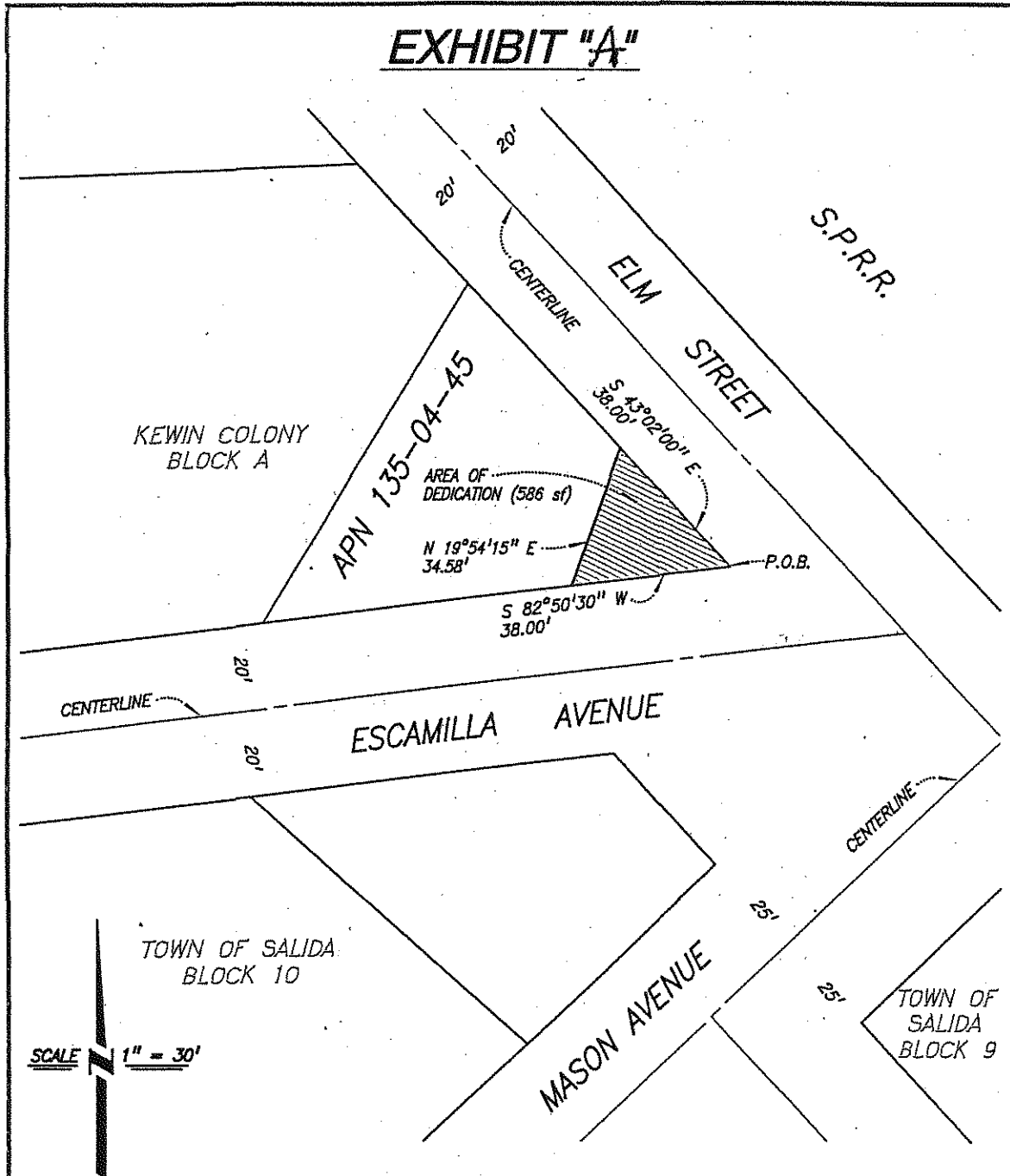
Michael D. Milich  
Michael D. Milich, City Attorney

## Proposed Parcel Disposition

Site: Former Del Este Well Site; Well abandoned

Original size of parcel: 3003 square feet  
Right-of-way sale to County: 586 square feet  
Remainder: 2417 square feet of surplus property

1. Non-buildable parcel
2. If combined with adjacent parcel, home addition/garage could be built
3. Lot line would be removed; Requires \$50 fee plus application to County



S:\SALIDA\122676\SNIPES\dwgs\townofsalida\north\135-04-45.dwg B\_Koehn XREFS: NONE



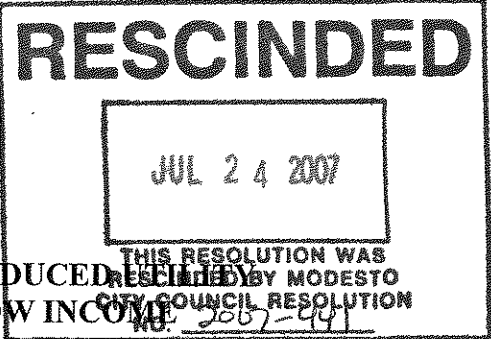
**THOMPSON-HYSELL  
ENGINEERS**

A DIVISION OF THE KEITH COMPANIES  
1018 12TH STREET, MODESTO, CA 95354  
(209) 521-8985 FAX (209) 521-6045

### RIGHT-OF-WAY DEDICATION

THAT CERTAIN REAL PROPERTY SITUATE IN BLOCK A, KEWIN COLONY AS SHOWN ON THE OFFICIAL MAP FILED FOR RECORD IN VOLUME 4 OF MAPS, AT PAGE 27, STANISLAUS COUNTY RECORDS, LYING IN SECTIONS 3 & 4, TOWNSHIP 3 SOUTH, RANGE 8 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-028



**A RESOLUTION ESTABLISHING GUIDELINES FOR REDUCED RATES FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED PERSONS FOR METERED AND UNMETERED WATER SERVICES**

WHEREAS, Sections 11-1.07 and 11-1.10 of the Modesto Municipal Code authorize the Council, by resolution, to establish charges for metered and unmetered water services and other utility charges, and

WHEREAS, by Resolution No. 2004-267 adopted on November 23, 2004, and which became effective January 1, 2005, the City Council rescinded all previous water resolutions, established a single rate base, established fees for the provision of water, and all fees associated with water operations and management, and various other Council resolution establish rates for sewer, storm drain, and garbage service, and

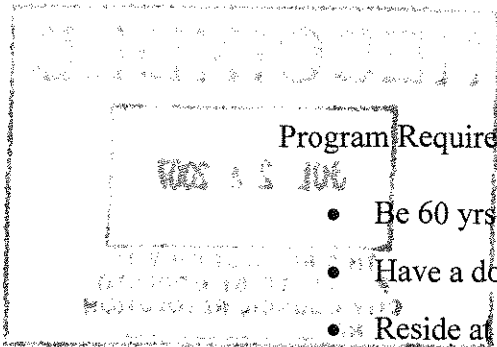
WHEREAS, Section No. 11 of Resolution no. 2004-267 states that from time to time, by separate resolution the City may enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund,

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

SECTION 1. UTILITY DISCOUNTS FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED PERSONS. The following utility discount rates for low income senior citizens and low income disabled persons shall apply as follows:

<u>Annual Income Levels</u>	<u>Discount</u>
Up to \$18,200	25% for water, sewer, storm drain and garbage





**Program Requirements:**

- Be 60 yrs or older and meet income levels.
- Have a documented medical card coded for disability.
- Reside at the address receiving the discount.

Program participants will be re-certified every two-years for eligibility verifying eligibility with a birth certificate, proof of income, and Medicare card. Disabled citizens will verify eligibility with a medical card coded with a disability and must provide proof of income.

SECTION 2. This resolution shall become effective on and after January 11, 2005.

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 January, 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-029**

**A RESOLUTION AUTHORIZING THE DONATION OF LAERDAL  
HEARTSTART 3000 DEFIBRILLATION EQUIPMENT, SUPPLIES, AND  
TRAINING EQUIPMENT TO MEDICAL AMBASSADORS INTERNATIONAL.**

WHEREAS, in 1994 the Modesto Firefighters recognized the need for defibrillator units on first responder fire apparatus, and

WHEREAS, the defibrillator units could be used to shock the heart back into a normal rhythm, and

WHEREAS, due to lack of department funding at that time, Modesto firefighters reached out to the community for assistance in funding this need, and

WHEREAS, a non-profit status was obtained and a Community Checking account was opened under the name of "Firefighters Emergency Medical Services" with Modesto Banking Company, and

WHEREAS, a total of 80 businesses and individuals donated \$98,000.00, and

WHEREAS, fifteen (15) defibrillators and related accessories were purchased and the Fire Department's defibrillation program began, and

WHEREAS, in June 2004, the Hearstart 3000 equipment was replaced with updated defibrillation equipment, and

WHEREAS, in order to maintain the spirit of the donations received, it is requested that the equipment be donated to an organization that it could most useful to,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the donation of the Heartstart 3000 defibrillator equipment, supplies and training equipment to Medical Ambassadors International.

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 January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-30**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$1 MILLION IN THE URBAN STREAMS RESTORATION PROGRAM UNDER THE STATE OF CALIFORNIA'S DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2004-2005.**

WHEREAS, the State of California has made funding available through the Department of Water Resource's Urban Streams Restoration Program for Fiscal Year 2004-2005, and

WHEREAS, development of the Tuolumne River Regional River Gateway Project (the "Project") is consistent with the Urban Streams Restoration program under the State Of California's Department of Water Resources programs, and

WHEREAS, said procedures established by the State of California's Water Resources Department require the applicant's governing body to certify by resolution the approval of the applicants 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, on December 12, 2001, by Resolution No. 2001-663, the Council of the City of Modesto certified the Tuolumne River Regional Park Master Environmental Impact Report (SCH# 2000022028), adopted a Statement of Findings of Fact and Overriding Considerations, adopted a Mitigation Monitoring Program, and directed staff to file a Notice of Determination,

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 \$1,000,000 in local assistance funds from the State of California's Department of Water Resources

through the Urban Streams Restoration Project for Fiscal Year 2004-2005;  
and

2. Certifies that the application has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
4. Appoints the Parks Planning and Development Manager as Project Manager; and
5. Authorizes the Acting 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 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-031**

**A RESOLUTION APPROVING A CONTRACT FOR \$58,960 WITH  
COTTON/BRIDGES/ASSOCIATES TO PROVIDE SERVICES TO PREPARE  
THE CITY OF MODESTO'S FIVE-YEAR CONSOLIDATED PLAN (2005-2010)  
AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING UPDATE.**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires entitlement grantees to adopt a comprehensive, long-term plan for the expenditure of HUD funds (the Five-Year Consolidated Plan (CP)), and

WHEREAS, the CP analyzes the City's housing and community development needs, with a priority focus on low- and moderate-income individuals, households, and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of a broad policy framework, the Consolidated Plan also addresses how the City will utilize funding from three different entitlement grants to meet those needs: the Community Development Block Grant (CDBG); the HOME Investment Partnership Grant (HOME); and the Emergency Shelter Grant (ESG), and

WHEREAS, in general, these funds must be used to revitalize low-income neighborhoods, and to assist disadvantaged populations by providing adequate public facilities and services, generating affordable housing opportunities and implementing effective strategies to reduce and end homelessness, and

WHEREAS, citizen participation is a key component of the consolidated planning process, and the federal regulations implementing the three entitlement grants require that the City provide ample opportunity and means for the populations served by the grants, as well as the general citizenry, to provide input to the goals and priorities that should be

reflected in the plan, as well as the specific types of activities that will be funded development of its community, and

WHEREAS, HUD is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing, through the implementation of fair housing actions, and

WHEREAS, provisions to affirmatively further fair housing are principal and long-standing components of HUD's housing and community development programs, and

WHEREAS, these provisions come from the mandate of Section 808(e)(5) of the Fair Housing Act which requires the Secretary of HUD to administer the Department's housing and urban development programs in a manner to affirmatively further fair housing, and

WHEREAS, HUD requires grantees to conduct an analysis to identify impediments to fair housing choice within the jurisdiction, which should be done at least every 5 years, and

WHEREAS, the City's current Consolidated Plan was adopted in 2000 and the last Analysis of Impediments (AI) to Fair Housing was completed in 1996, and

WHEREAS, both documents are currently due and should be completed before the end of the 2004-2005 fiscal/program year, and

WHEREAS, on September 28, 2004, by Resolution 2004-406, the City Council authorized staff to solicit formal proposals for the Consolidated Plan and Analysis of Impediments, and

WHEREAS, during the first week of October 2004, the Requests for Proposals (RFP) were sent to 22 firms throughout California, with a due date for proposal on November 6, 2004, and no proposals were received, and

WHEREAS, staff revised the RFP timeline and searched the Internet for additional firms who conduct Consolidated Plan and Analysis to Impediments work, and sent the revised RFP to 35 firms, nation-wide, on November 10, 2004, and

WHEREAS, seven proposals were received by the due date of December 10, 2004, of which four proposals were from out-of-state and three from California, and

WHEREAS, on December 15, 2004, a committee consisting of Departmental staff met to review the proposals, and

WHEREAS, the Committee narrowed down the firm selection to two firms: Cotton/Bridges/Associates and Pacific Municipal Consultants, and

WHEREAS, following the selection of two firms, two members of the Citizens Housing and Community Development Committee (CH&CDC) read and discussed the proposals with staff; staff and the two committee members recommended Pacific Municipal Consultants as the top firm to provide the CP and AI work, and at the December 17, 2004, meeting, the CH&CDC agreed with the screening committee's recommendations, and

WHEREAS, after the CH&CDC meeting, staff discovered that Pacific Municipal Consultants was ineligible to enter into a CDBG-funded contract with the City of Modesto due to a "conflict of interest" issue; following the unforeseen ruling, staff contacted the members of CH&CDC by letter and informed them of a decision to move to the next firm on the short list of "Firms Selected as Potential Firms for CP and AI";



and Cotton/Bridges/Associates was the second firm on the "short list" of selected firms and has excellent qualifications and references, and

WHEREAS, staff is recommending allocating \$58,960 from Services, Professional & Other, to Cotton/Bridges/Associates to provide services to prepare the City of Modesto's Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update, and

WHEREAS, funding is available from CDBG funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with Cotton/Bridges/Associates to provide services to prepare the city of Modesto's Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update at a cost of \$58,960.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-032**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 OPERATING BUDGET TO TRANSFER \$10,000 FROM 1130-320-3252-0181, SALARY ADJUSTMENT, TO 1130-320-3252-0235, SERVICES, PROFESSIONAL & OTHERS.**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires entitlement grantees to adopt a comprehensive, long-term plan for the expenditure of HUD funds (the Five-Year Consolidated Plan (CP)), and

WHEREAS, the CP analyzes the City's housing and community development needs, with a priority focus on low- and moderate-income individuals, households, and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of a broad policy framework, the Consolidated Plan also addresses how the City will utilize funding from three different entitlement grants to meet those needs: the Community Development Block Grant (CDBG); the HOME Investment Partnership Grant (HOME); and the Emergency Shelter Grant (ESG), and

WHEREAS, in general, these funds must be used to revitalize low-income neighborhoods, and to assist disadvantaged populations by providing adequate public facilities and services, generating affordable housing opportunities and implementing effective strategies to reduce and end homelessness, and

WHEREAS, citizen participation is a key component of the consolidated planning process, and the federal regulations implementing the three entitlement grants require that the City provide ample opportunity and means for the populations served by the grants, as well as the general citizenry, to provide input to the goals and priorities that should be

reflected in the plan, as well as the specific types of activities that will be funded development of its community, and

WHEREAS, HUD is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing, through the implementation of fair housing actions, and

WHEREAS, provisions to affirmatively further fair housing are principal and long-standing components of HUD's housing and community development programs, and

WHEREAS, these provisions come from the mandate of Section 808(e)(5) of the Fair Housing Act which requires the Secretary of HUD to administer the Department's housing and urban development programs in a manner to affirmatively further fair housing, and

WHEREAS, HUD requires grantees to conduct an analysis to identify impediments to fair housing choice within the jurisdiction, which should be done at least every 5 years, and

WHEREAS, the City's current Consolidated Plan was adopted in 2000 and the last Analysis of Impediments to Fair Housing was completed in 1996, and

WHEREAS, both documents are currently due and should be completed before the end of the 2004-2005 fiscal/program year, and

WHEREAS, staff is recommending allocating \$58,960 from Services, Professional & Other, to Cotton/Bridges/Associates to provide services to prepare the City of Modesto's Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update, and

WHEREAS, funding is available from CDBG salary adjustment, and

WHEREAS, in order to make these funds available to Cotton/Bridges/Associates, \$10,000 needs to be transferred into the Services, Professional & Others account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 2004-2005 operating budget to transfer \$10,000 from 1130-320-3252-0181, salary adjustment, to 1130-320-3252-0235, Services, Professional & Other to provide necessary funding for Cotton/Bridges/Associates to perform professional services relating to preparation of the City of Modesto's Five-Year Consolidated Plan (2005-2010) and Analysis of Impediments to Fair Housing Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-033**

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

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

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

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the following classification:

1. Firefighter/Firefighter Trainee

Said classification is being amended to revise the job specification to change the minimum age requirement.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 11, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

FIREFIGHTER  
FIREFIGHTER TRAINEE

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 respond to fire alarms, medical emergency and other calls to protect life and property; and to participate in fire prevention, training and station and equipment maintenance activities.

DISTINGUISHING CHARACTERISTICS

Firefighter Trainee - This is the entry level class in the Firefighter series. Employees at this level are not expected to perform with the same independence of direction and judgment on matters related to established procedures and guidelines as are positions allocated to the journey level. Since this class is typically used as a training class, employees may have only limited or no directly related fire suppression work experience. Employees work under general supervision while learning job tasks and are expected to be performing at the journey level within prescribed time frames.

Firefighter - This is the full journey level class within the professional Firefighter series. Employees within this class are distinguished from the Firefighter Trainee by the performance of the full range of duties as assigned. Employees at this level receive instruction or assistance as new or unusual situations arise and are fully aware of the operating procedures and policies within the work unit. Positions in this class are flexibly staffed and are normally filled by advancement from the Firefighter Trainee level.

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:

Respond to fire alarms with assigned company; lay and connect hose; maintain pumping apparatus; hold nozzles and direct water streams; raise and climb ladders.

Essential Functions: (Continued)

Operate all types of portable fire extinguishers, pike poles, hand lines, smoke ejectors, salvage covers, forcible entry tools, aerial ladder equipment, emergency medical equipment and other rescue equipment.

Provide basic life support while responding to emergency medical incidents, analyzing and initiating patient care until relieved by proper medical personnel.

Administer first aid; assist paramedics at medical emergencies; apply techniques for the control of bleeding; utilize immobilization techniques to stabilize patient.

Respond to hazardous materials incidents.

Participate in fire inspection activities and other fire prevention and public education activities as assigned; ensure that businesses are operating in compliance with the fire code; maintain appropriate records and files.

Monitor appropriate air traffic control frequencies and visually monitor the airfield during times that the FAA tower is closed but commercial flights are scheduled to either arrive or depart.

Inspect aircraft ramp and refueling operations at the airport.

Perform the airfield and runway inspections on weekends and holidays, as required.

Participate in the Fire Prevention Program providing various public relations services, including facility tours, High School Career Day, Neighborhood Watch programs and public education seminars.

Participate in fire drills; serve as drill instructor as assigned; attend training sessions, which include fire fighting techniques, emergency medical care, and the proper use of all equipment and related tools.

Clean apparatus and equipment and perform general custodial duties as required.

Assist in maintaining prefire plans; update maps as required.

Respond to public complaints regarding weed abatement and fire and safety hazards.

Issue bicycle licenses.



Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

FIREFIGHTER TRAINEE

Ability to:

Learn to understand and act in accordance with departmental policies, rules, and instructions in the field of fire fighting.

Learn to apply fire fighting and medical techniques and procedures.

Demonstrate mechanical aptitude as required in the operation of fire fighting equipment.

Learn the layout of the City's water main system and street numbering system.

Retain presence of mind in emergency situations.

Think and act quickly and effectively in emergencies.

Understand and follow oral and written directions promptly and accurately.

Perform occasional heavy lifting up to 100 lbs. and physical maneuvering.

Perform general office and clerical duties in support of assigned activities.

Communicate effectively, both orally and in writing.

Shall pass all required oral, manipulative and written exams for Firefighter Trainee.

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

Work in communal environment that includes common sleeping, eating, and restroom facilities.

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:

Firefighter Trainee

Experience:

None required.

Training:

Graduation from high school or possession of a G.E.D. certificate at the high school equivalency level.

License or Certificate

Possession of a current Cardiopulmonary Resuscitation (CPR) card.

Possession of a current State of California Emergency Medical Technician I (EMT) card is required at time of application. A course completion certificate is NOT adequate.

Possession of a California State Fire Marshal's Office Firefighter I Certificate OR graduation from a California State Fire Marshal's accredited Firefighter I academy OR the completion of 15 semester units of college coursework in Fire Science "major" courses.

Possession of an appropriate, valid California Driver's License.

Additional Requirement:

~~Must be a Minimum of 21 years of age~~ minimum of age 20 by final filing date of recruitment and 21 years of age by hire date.

FIREFIGHTER

**In addition to the qualifications for Firefighter Trainee:**

Knowledge of:

Principles, practices, and procedures of modern firefighting.

Fire apparatus, equipment, tools, devices, facilities and their proper use.

Basic principles of hydraulics relating to fire equipment.

Safe driving practices.

Knowledge of: (Continued)

Advanced first aid, CPR and other medical assistance techniques.

Ability to:

Analyze fire and emergency situations and adopt effective courses of action.

Maintain and test fire sprinkler systems and fire hydrants.

Operate and maintain voice radio equipment.

Safely remove victims from buildings and automobiles.

Shall pass all required oral, manipulative and written exams for Firefighter.

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:

Firefighter

Experience

Successful completion of the City of Modesto Firefighter Program.

Training:

Graduation from high school or possession of a G.E.D. Certificate at the high school equivalency level.

License or Certificate:

Possession of a current Cardiopulmonary Resuscitation (CPR) card.

Possession of a current State of California Emergency Medical Technician (EMT) card is required at time of application. A course completion certificate is NOT adequate.

License or Certificate: (Continued)

Possession of a California State Fire Marshal's Office Firefighter I certificate OR graduation from a California State Fire Marshal's accredited Firefighter I academy OR completion of 15 semester units of college coursework in Fire Science "major" courses.

Possession of an appropriate, valid California Driver's License.

Additional Requirement:

~~Must be a Minimum of 21 years of age~~ minimum of age 20 by final filing date of recruitment and 21 years of age by hire date.

WORKING CONDITIONS:

Environmental Conditions:

Emergency response environment; exposure to hot and humid work environment making rapid transitions from rest to near maximal exertion without warm-up period.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for bodily mobility to operate and crawl in restricted space; walk, stand, or sit for prolonged periods of time; operate motorized equipment and vehicles; and the ability to work in hot and humid environments while wearing firefighting equipment which may inhibit all necessary senses.

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-034**

**A RESOLUTION APPROVING A LEASE AGREEMENT WITH THE ARTHUR  
M. McELROY MARITAL TRUST FOR PROPERTY LOCATED AT 1124 F  
STREET, MODESTO, CALIFORNIA AND AUTHORIZING THE ACTING CITY  
MANAGER TO EXECUTE SAID LEASE AGREEMENT**

WHEREAS, the City of Modesto leases the building at 1124 F Street, Modesto for the Police Department's Evidence and Property Facility from the Arthur M. McElroy Marital Trust, and

WHEREAS, the last five-year lease expired on October 8, 2004, and the Police Department wants to renew as the facility is serving its purpose well, and

WHEREAS, the term of the new lease is also five years, from October 9, 2004 through October 8, 2009, and

WHEREAS, the lease payment will increase by six percent, from \$27,072 annually to \$28,740 annually, and

WHEREAS, Police staff considers this reasonable and funds are budgeted, and

WHEREAS, the Police Department must maintain a Property and Evidence Facility for its law enforcement duties and operations, and

WHEREAS, this facility at 1124 F Street, Modesto is adequate at present and for the near future,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the lease agreement with the Arthur M. McElroy Marital Trust.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

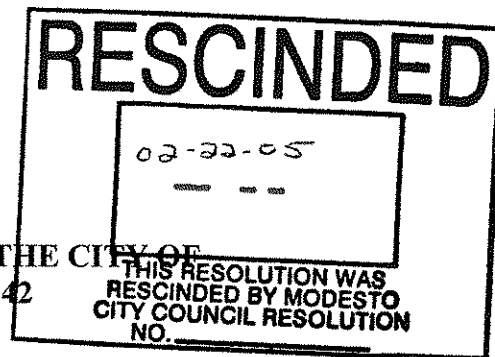
ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-035**



**A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF  
MODESTO AND RESCINDING RESOLUTION NO. 2004-642**

2005-109  
THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO.

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 Councilmember Denny Jackman to install angle parking on the east side of 10th Street between G and I Streets 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 the east side of 10th Street between G and I Streets without creating a hazard and without impeding traffic flow, and

WHEREAS, the Economic Development Committee considered the additional angle parking on 10th Street at its December 13, 2004, meeting and supported staff's recommendation,

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)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2004-642 is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 -036**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO THE LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKY TREK AVIATION, WHICH ALLOWS A SUSPENSION UNTIL DECEMBER 31, 2005 OF A 5% SUBLEASE FEE THAT SKY TREK AVIATION PAYS TO THE CITY ON GROSS RENTS RECEIVED, AND AUTHORIZING THE ACTING 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 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 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

WHEREAS, at their December 13, 2004 meeting the Economic Development Committee recommended Council approve Sky Trek's request to suspend the 5% surcharge, and

WHEREAS, the Economic Development Committee further recommended the suspension be made retroactively from June 1, 2004 to December 31, 2005, and

WHEREAS, a new second amendment to the City lease agreement with Sky Trek Aviation has been prepared to provide for suspension of the 5% sublease fee until December 2005, and

WHEREAS, the City Attorney's Office finds the terms of the second amendment acceptable,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the second amendment lease agreement between the City of Modesto and Sky Trek Aviation, suspending the five (5) percent sublease fee retroactively from June 1, 2004, to December 31, 2005.

BE IT FURTHER RESOLVED that the Acting 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 11th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-037**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS CONSISTENT WITH THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR AND WITH ADDENDA FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE AND THE FACILITIES MASTER PLAN UPDATE: FREEDOM NEIGHBORHOOD PARK.**

WHEREAS, on September 11, 1990, the Modesto City Council adopted Resolution No. 90-757 certifying that the Village One Specific Plan Program Environmental Impact Report ("EIR") (State Clearing House No. 90020181) was complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, the development of the utility infrastructure for the Village One Specific Plan area is contemplated by, and acknowledged within, the Village One EIR, as amended by the Supplemental EIR, 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, on December 7, 2004, the City Council adopted Resolution No. 2004-646 finding that the potential environmental effects of Amendment #1 to the Village One Facilities Master Plan Update (May 2003) 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), with Addendums for the Village One Storm Drainage Master Plan Update (EA/CM 2003-02) and the Village One Facilities Master Plan Update (EA/CM 2003-03), and

WHEREAS on January 11, 2005, the City Council by Resolution No. 2005-038 approved the Freedom Neighborhood Park project, which includes: adoption of the Master Plan and Design Development Report, and

WHEREAS, in connection with that approval, City staff prepared a Written Checklist, Environmental Assessment No. EA/ PR&N 2003-05, (“Checklist”), 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

WHEREAS, in accordance with the CEQA guidelines, the City has caused to be published a 10-day notice of the City’s intent to make a finding of conformance with the Checklist and the Village One Program EIR as amended by the Supplemental EIR, on December 23, 2004, and

WHEREAS, this matter was considered by the City Council at a duly noticed meeting at 5:30 p.m., on January 11, 2005, 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 Village One Program EIR as amended

by the Supplemental EIR (SCH No. 90020181), the Addenda for the Village One Storm Drainage Master Plan Update (EA/CM 2003-02), the Facilities Master Plan Update (EA/CM 2003-03), and Environmental Assessment No. EA/ PR&N 2003-05, entitled “Freedom Neighborhood Park”, for the proposed project, and the Council hereby makes the following findings:

- A. 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 Update 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
- B. 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 Update 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
- C. 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 Update 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.
- D. 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 amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan Update and the Village One Facilities Master Plan Update. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.

- E. Therefore, the Freedom Neighborhood Park project is within the scope of the Village One Program EIR as amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan Update and the Village One Facilities Master Plan Update.
- F. This Written Checklist provides substantial evidence to support findings A, B, C, D and E above.

A copy of said Environmental Assessment No. EA/PR&N 2003-05, entitled "Freedom Neighborhood Park", is on file and available in 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 11th day of January, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-038**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND  
MASTER PLAN INCLUDED THEREIN FOR FREEDOM NEIGHBORHOOD  
PARK.**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Freedom Neighborhood Park site immediately to the south of Sharon Avenue and west of the Freedom Elementary School Site on the corner of Sharon Avenue and Fine Avenue, and

WHEREAS, Callander Associates Landscape Architecture, Inc. has provided the Design Development Report and Master Plan included therein for Freedom Neighborhood 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, on November 1, 2004, the Safety and Communities Committee recommended approval of the Freedom Neighborhood Park, and

WHEREAS, by an agenda report dated December 16, 2004, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Freedom Neighborhood Park Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, the Freedom Neighborhood Park Design Development Report dated October 15, 2004, 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 (EA/CM 2003-02) and the Village One Facilities Master Plan Update (EA/CM 2003-03), and

WHEREAS, on January 11, 2005, concurrent with this resolution, the Modesto City Council adopted Resolution No. 2005-037 finding that development and construction of the Freedom Neighborhood Park is in conformance with the 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 (EA/CM 2003-02) and the Village One Facilities Master Plan Update (EA/CM 2003-03),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Freedom Neighborhood Park Design Development Report is complete and adequate, and it hereby approves the Freedom Neighborhood 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 11th day of January, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-039**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC. TO INCLUDE PROFESSIONAL SERVICES TO PREPARE CONSTRUCTION DOCUMENTS FOR ROAD IMPROVEMENTS ADJACENT TO FREEDOM NEIGHBORHOOD PARK FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$41,320.00, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Freedom Neighborhood Park site immediately to the south of Sharon Avenue and west of the Freedom Elementary School Site on the corner of Sharon Avenue and Fine Avenue, and

WHEREAS, on March 4, 2003, by Resolution No. 2003-118, the City Council approved an agreement with Callander Associates Landscape Architecture, Inc. to provide the Design Development Report and Master Plan included therein for Freedom Neighborhood Park for a total contract amount not to exceed \$97,020.00, and

WHEREAS, during the master planning phase of this project, it was determined that construction documentation for the adjacent road improvements would be needed to complete the park construction documentation, and

WHEREAS, it was deemed most cost effective to amend the contract for Callander Associates Landscape Architecture, Inc. to include this additional construction documentation, and

WHEREAS, Callander Associates Landscape Architecture, Inc. has agreed to provide the additional Construction Documents for the adjacent road improvements at a cost not to exceed \$41,320.00,

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 the additional Construction Documents for the adjacent road improvements at a cost not to exceed \$41,320.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-040**

**A RESOLUTION APPOINTING WILLIE McDANIEL  
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 January 13, 2005, and recommended its approval to appoint WILLIE McDANIEL to the Board of Zoning Adjustment.

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

SECTION 1. WILLIE McDANIEL is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the 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 25<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-041**

**A RESOLUTION APPOINTING AMANDA EVANS AND JOHN HUEY 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 January 13, 2005, and recommended appointment of AMANDA EVANS and JOHN HUEY 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. AMANDA EVANS, with a term expiration of January 1, 2006, and JOHN HUEY, with a term expiration of January 1, 2007, are hereby appointed to the Citizens Advisory Committee on Recycling.

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 25<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-043**

**A RESOLUTION APPOINTING JOHN HUFFMAN AND CHRIS MURPHY TO THE  
LOCAL CABLE PROGRAMMING COMMITTEE**

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

WHEREAS, the Economic Development Committee met on January 13, 2005, and recommended appointment of JOHN HUFFMAN and CHRIS MURPHY to the Local Cable Programming Committee.

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

SECTION 1. JOHN HUFFMAN and CHRIS MURPHY, are hereby appointed to the Local Cable Programming Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Local Cable Programming Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-042**

**A RESOLUTION APPOINTING ALICE INGHAM RICHARDS  
TO THE CULTURE COMMISSION**

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

WHEREAS, the Economic Development Committee met on January 13, 2005, and recommended appointment of ALICE INGHAM RICHARDS to the Culture Commission.

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

SECTION 1. ALICE INGHAM RICHARDS is hereby appointed to the Culture Commission with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 25<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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

*Jean Zahr*  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

*Michael D. Milich*  
\_\_\_\_\_  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-044**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT FOR CONSULTANT SERVICES WITH MAZE & ASSOCIATES FOR ADDITIONAL WORK AT A COST NOT TO EXCEED \$8,295, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.**

WHEREAS, at its April 6, 2004, meeting the Modesto City Council adopted Resolution 2004-171 approving execution of a contract with Maze & Associates to perform additional, non-audit services for the City, and

WHEREAS, the City Manager executed said contract on behalf of the City of Modesto, and

WHEREAS, the City requested Maze & Associates to perform additional work in addition to the originally contracted work, the Annual Report of Financial Transactions required by the State Controller, at a price not to exceed \$8,295, and

WHEREAS, this additional work increases the total contract price to an amount not to exceed \$86,495, and

WHEREAS, the contract for these audit services requires Modesto City Council approval for such additional work, and

WHEREAS, at its January 6, 2005, meeting the Audit Committee recommended that the Council approve payment for the additional work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Agreement for Consultant Services with Maze & Associates, authorizing the additional work proposed, at a cost not to exceed \$8,295.

BE IT FURTHER RESOLVED that the Acting 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 25<sup>th</sup> day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-045**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND MERITAGE HOMES OF CALIFORNIA, INCORPORATED FOR IMPROVEMENTS TO THE INTERSECTION OF OAKDALE & ROAD G AND IMPROVEMENTS ON OAKDALE (FROM FLOYD AVENUE TO LA FORCE DRIVE) AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No. 90020181), WITH ADDENDUMS FOR KODIAK VILLAGE VESTING TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2003-92) AND FOR KODIAK VILLAGE II VESTING TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2004-22)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Meritage Homes of California, Incorporated (“Developer”) has agreed to install certain improvements to the intersection of Oakdale & Road G and to Oakdale (from Floyd Avenue to La Force Drive), and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“agreement”) between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$282,755, and

WHEREAS, the City Council has received and considered the Initial Studies, Environmental Assessment EA/C&ED Nos. 2003-92 & 2004-22, which conclude that Developer’s projects entitled Kodiak Village Vesting Tentative Subdivision Map and Kodiak Village II Vesting Tentative Subdivision Map, 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 modified by the 1994 Final Supplemental EIR (SCH No. 90020181), with Addendums for Kodiak Village Vesting Tentative Subdivision Map (EA/C&ED No. 2003-92) and for Kodiak Village II Vesting Tentative Subdivision Map (EA/C&ED No. 2004-22), 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 Meritage Homes of California, Incorporated ("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 Initial Studies, Environmental Assessment EA/C&ED Nos. 2003-92 & 2004-22, provide the substantial evidence to support findings 1-5, 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-046**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND SCC-CANYON II, A DELAWARE LIMITED LIABILITY CORPORATION FOR APPROXIMATELY .13 ACRES ON OAKDALE ROAD AT LA FORCE DRIVE AND APPROXIMATELY .67 ACRES ON OAKDALE ROAD (BETWEEN FLOYD AVENUE AND LA FORCE DRIVE) AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No. 90020181), WITH ADDENDUMS FOR KODIAK VILLAGE VESTING TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2003-92) AND FOR KODIAK VILLAGE II VESTING TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2004-22)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, SCC-Canyon III, a Delaware Limited Liability Corporation (“Developer”) has agreed to sell approximately .13 acres on Oakdale Road at La Force Drive and approximately .67 acres on Oakdale Road (between Floyd Avenue and La Force Drive) to the City of Modesto so that certain improvements to the intersection of Oakdale & Road G and to Oakdale Road (from Floyd Avenue to La Force Drive) can occur, and

WHEREAS, the City Council has considered the proposed Right Of Way Acquisition Agreement (“agreement”) between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$280,000, and

WHEREAS, the City Council has received and considered the Initial Studies, Environmental Assessment EA/C&ED Nos. 2003-92 & 2004-22, which conclude that Developer's projects entitled Kodiak Village Vesting Tentative Subdivision Map and Kodiak Village II Vesting Tentative Subdivision Map, including 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), with Addendums for Kodiak Village Vesting Tentative Subdivision Map (EA/C&ED No. 2003-92) and for Kodiak Village II Vesting Tentative Subdivision Map (EA/C&ED No. 2004-22), 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 Meritage Homes of California, Incorporated ("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 Initial Studies, Environmental Assessment EA/C&ED Nos. 2003-92 & 2004-22, provide the substantial evidence to support findings 1-5, 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 047**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich  
MIKE MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: \_\_\_\_\_  
 Department: Finance  
 Fund Title: Wastewater

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_  
 RolloverFY05

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

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

**APPROPRIATIONS**

<u>FROM</u> MY-6210-440-K653-6010	K653		(\$44,290)	(\$44,290)	Scenic Lift Station
<u>TO</u> MY-6210-430-B491-6010	B491	\$100,000	\$44,290	\$144,290	Scenic Lift Station

**COMMENTS/JUSTIFICATION**

Beginning FY rollover to another CIP for the same project

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: Dolly Haskell  
 Telephone No.: 2-2202  
 Department: Public Works  
 Fund Title: Water Fund

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Obj-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
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**DEPARTMENTAL REVENUES**

FROM	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
TO	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object

**APPROPRIATIONS**

FROM	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
MY-6180-480-W616-6040	W428	\$124,108	(\$117,891)	\$6,217	Outlying Strengthen and Replace
MY-6180-480-W428-6052	W428	\$152,137	(\$117,891)	\$34,246	Strengthen and Replace Primary
MY-6180-480-W430-6052	W430	\$1,229,448	(\$117,891)	\$1,111,557	Wellhead Treatment
TO	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
MY-6180-480-W428-6052	W428	\$34,246	\$117,891	\$152,137	Strengthen and Replace Primary
MY-6180-480-W430-6052	W430	\$1,111,557	\$117,891	\$1,229,448	Wellhead Treatment
MY-6180-480-W612-6040	W430	\$711,457	\$117,891	\$829,348	GACs

**COMMENTS/JUSTIFICATION**

This budget adjustment is to move the contract for Wellhead Treatment and it's budget to the appropriation CIP designated for the Wellhead Treatment

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: Tracie Madison/Debra Eggerman  
 Telephone No.: \_\_\_\_\_  
 Department: CIP for all Depts

Council Action Date: Oct 12, 2004  
 Resolution Number: \_\_\_\_\_

Project Title: Tully/Woodrow  
 Fund Title: \_\_\_\_\_

FY: 04-05  
 Transfer No. \_\_\_\_\_

Attachment A-2

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

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

**APPROPRIATIONS**

<u>FROM</u>					
2300-160-M144-6051	M144C	34,010	(34,010)		Contingency-Finance Reserve
2370-800-8000-8003	2370R	34,010	(34,010)		
<u>TO</u>					
2370-160-E697-6051	E697	(34,010)	34,010		Contingency-Finance
2300-160-M144-6040	M144C	100,774	34,010	134,784	Contingency-Finance

**TRANSFERS BETWEEN FUNDS**

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

**NOTES**

Previously, Traffic staff requested that the funding for Account 2300-160-M144 be reduced by approximately \$400,000 with the intent to end up with an account balance of \$200,000. As a result, \$400,000 in funding was moved to reserves. Traffic staff thought an existing project under construction was complete; however, the project was still under construction, and now requires some additional funding. This transfer to M144 from reserves will satisfy all the needs of Account 2300-160-M144 for fiscal year 04-05.

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: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance

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

Fund Title: Capital Grants Fund (2300)

FY: 04-05  
 Transfer No. \_\_\_\_\_

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

<u>FROM</u> MY-2300-160-N498-3135		\$31,000	(\$31,000)		State Match RSTP/CMAQ
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u> 05-1410-800-8000-8003	1410R	(\$4,806,468)	(\$64,229)	(\$4,870,697)	Gas Tax Contingency Reserves
<u>TO</u> 05-2300-800-8000-8003	2300R	\$84,103	\$33,229	\$117,332	Capital Grant Contingency Reserves

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u> MY-1410-700-N498-7230	N498G	\$31,888	\$64,229	\$96,117	Transfer to Two New Traffic Sigs
<u>TO</u> MY-2300-700-N498-9141		\$31,888	\$64,229	\$96,117	Transfer to Operating CCTV 2Yr

**COMMENTS/JUSTIFICATION**

During Phase II of the CIP clean-up it was discovered that the funding source allocations were incorrect. This adjustment will allow the budget to match what is being billed by the project N498 Two New Traffic Signals

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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tina Rocha  
 Telephone No.: Ext. 75321  
 Department: Office of the City Manager

Council Action Date: N/A  
 Resolution Number: N/A

Fund Title: CFD No. 2004-1 (Village One #2)      FY: 04-05  
 Transfer No. \_\_\_\_\_

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

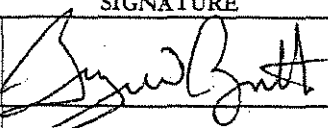
<b>FROM</b>					
2690-800-8000-8206	n/a		(\$30,000)	(\$30,000)	Village One CFD #2
		<b>TOTAL</b>	(\$30,000)	(\$30,000)	
<b>TO</b>					
0100-800-8000-8003	0100R		\$30,000	\$30,000	General Fund Reserve
		<b>TOTAL</b>	\$30,000	\$30,000	

### TRANSFERS

<b>FROM</b>					
2690-701-7001-7010	n/a	\$ -	\$ 30,000.00	\$ 30,000.00	Transfer out to General Fund
		<b>TOTAL</b>	\$ 30,000.00	\$ 30,000.00	
<b>TO</b>					
0100-701-7001-9269	n/a	\$ -	\$ 30,000.00	\$ 30,000.00	Transfer in from Fund 2690
		<b>TOTAL</b>	\$ 30,000.00		

### COMMENTS/JUSTIFICATION

Partial reimbursement (\$30,000) of the \$35,000 loan made from the General Fund to Fund 2690 (Ordinance No. 3319-C.S.) The balance of the loan (\$5,000) as well as all interest associated with the loan will be paid after the bond issue which is anticipated to occur in Spring 2005.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		12/21/2004
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)		

## REQUEST FOR BUDGET ADJUSTMENT

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

Council Action Date: na \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

<u>Transfers In</u>					
<u>Transfers Out</u>					

**APPROPRIATIONS**

<u>FROM</u>					
1300-800-8000-8003	1300R		(\$450,000)		
<u>TO</u>					
1300-190-M168-6040	M168	\$1,221,430	\$450,000	\$1,671,430	

**COMMENTS/JUSTIFICATION**

This CIP adjustment moves the \$450k spending scheduled for FY 05-06 into FY 04-05. This adjustment is necessary to meet current construction plans. The Police Department presented FY 04-05 construction projects in the current year but the projects were inadvertently recorded in the FY 05-06 CIP document.

The project (M168) is the Training facility on West Main, near the City's remote pond site on Jennings Road. The additional \$450,000 is to build a range house and restrooms at the site. The project will eventually consist of a firing range, classrooms, canine & equestrian training facilities, and a driver's training or EVOC course. This site will improve PD training and eliminate traveling to other jurisdictions for adequate training facilities.

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. 2005-048**

**RESOLUTION APPROVING A 60-DAY EXTENSION OF COMCAST'S  
OBLIGATION TO DEMONSTRATE SUBSTANTIAL COMPLIANCE WITH  
THE REQUIRED OUTSIDE PLANT SAFETY CODES.**

WHEREAS, in May 2004, the City of Modesto and Comcast Cable entered into a settlement agreement for the completion of the upgrade to the City's cable system and,

WHEREAS, this agreement required that the cable system be upgraded to 750mHz by July 01, 2004, and that GO95/GO128 compliance be established by no later than 31 January 2005, and

WHEREAS, on 11 January 2005, Comcast notified the City that they would need additional time in order to successfully complete the GO95/GO128 compliance requirement, and

WHEREAS, in their written notification Comcast requested an extension of the GO95/GO128 deadline from 31 January 2005 to 31 March 2005, and

WHEREAS, in view of the over-riding concern that the City has for the public safety issues that are involved and the fact that Comcast has shown significant progress in their efforts to conform to GO95/GO128 code requirements, and

WHEREAS, Comcast acknowledges that any further delays to the completion of this work will represent an ongoing hazard to the public and will require the harshest response from the City, including the assessment of penalties, fines, and any other legal action deemed necessary, and that the City will provide no additional time to cure past the 31 March extension date.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a 60-day extension be granted.

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

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-049**

**A RESOLUTION AFFIRMING THE COMMITMENT OF THE CITY OF MODESTO TO SUPPORT THE CONTINUED OPERATION AND MAINTENANCE OF THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK (TRRP), SHOULD THE TRRP JOINT POWERS AUTHORITY (JPA) DISSOLVE, AS A PUBLIC ACCESS FACILITY FOR USE BY THE CITIZENS OF STANISLAUS COUNTY AND THE GENERAL PUBLIC FOR A PERIOD OF TIME ENDING NO LATER THAN DECEMBER 31, 2030, OR 25 YEARS FROM ISSUANCE OF A STATE OF CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION BOND ACT OF 2002 (PROPOSITION 40) GRANT, WHICHEVER PROVIDES FOR THE LATER DATE, AS RECOMMENDED BY THE TUOLUMNE RIVER REGIONAL PARK JPA COMMISSION.**

WHEREAS, the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40) provides for a line item grant in the amount of \$1,140,000 for the Tuolumne River Regional Park – Gateway Parcel Development, and

WHEREAS, a special provision of the grant is to provide evidence satisfactory to the State that the project will be operated and maintained as public open space for a minimum of twenty-five (25) years, and

WHEREAS, the Tuolumne River Regional Park (TRRP) is operated under a Joint Powers Authority (JPA) comprised of the County of Stanislaus, the City of Modesto and the City of Ceres, and

WHEREAS, the intent of the JPA is to operate and maintain the Tuolumne River Regional Park as a public access facility for use by the citizens of Stanislaus County and the general public, and

WHEREAS, the JPA desires to maintain and operate the area known as the Gateway Parcel as a public access facility for use by the citizens of Stanislaus County and the general public, and

WHEREAS, in the event that the JPA desires to dissolve, the area known as the Gateway Parcel will revert back to the City of Modesto to be cared for in a similar manner per the provisions of Paragraph 2 and Paragraph 18 of the JPA agreement dated February 28, 1978, and

WHEREAS, in order to receive the aforementioned funding from the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40), the City of Modesto must affirm its commitment to continue to maintain the Gateway Parcel as public open space for a period not less than twenty-five (25) years from issuance of grant funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby affirms the commitment of the City of Modesto to support the continued operation and maintenance of the Gateway Parcel of the Tuolumne River Regional Park, should the TRRP JPA dissolve, as a public access facility for use by the citizens of Stanislaus County and the general public for a period of time ending no later than December 31, 2030, or 25 years from issuance of a State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40) grant, whichever provides for the later date, as recommended by the Tuolumne River Regional Park JPA Commission.

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-050**

**A RESOLUTION SELECTING BEALS ALLIANCE, CALLANDER ASSOCIATES INC., THE HLA GROUP, O'DELL ENGINEERING, ROYSTON HANAMOTO ALLEY & ABEY, AND STANTEC CONSULTING INC. TO PROVIDE LANDSCAPE ARCHITECTURAL AND RELATED SERVICES TO THE CITY FOR A PERIOD OF THREE (3) YEARS (MAXIMUM CONTRACT AMOUNT NOT TO EXCEED \$300,000 PER PROJECT AGREEMENT).**

WHEREAS, the City proposes to develop a short-list of on-call landscape architectural service providers, to be used on a rotating, on-call basis, to prepare master plans, design development reports, construction documents and other related work, and

WHEREAS, the landscape architectural consultants will be used on an on-call basis as the need arises and the list will be in place for three years, and

WHEREAS, this On-Call list will then be updated every three years, and

WHEREAS, the purpose of the short list is to assist the City in preparing master plans, design development reports, construction documents and other related work; to streamline the development process; and to maintain a close working relationship with the short-list of firms, on an ongoing basis to further standardize and improve the City's master planning and construction documentation processes, leading to further project streamlining, and

WHEREAS, to begin the Service Provider Selection process, the City issued a Request for Qualifications on September 28, 2004, and on October 27, 2004, received twenty-three submittals in response, and

WHEREAS, the Consultant Selection Committee consisted of Doug Critchfield, Manager-Parks Planning and Development; Nathan Houx, Project Coordinator; Duane

Frederick, Parks Maintenance Superintendent; and, Paul Hom, Associate Civil Engineer,  
and

WHEREAS, the Selection Committee short-listed the twenty-three submittals to  
eleven firms, who were invited to an interview on December 8 and 9, 2004, and

WHEREAS, following the initial interviews, the Selection committee  
recommends that the City Council select six firms (Beals Alliance, Callander Associates  
Inc., The HLA Group, O'Dell Engineering, Royston Hanamoto Alley & Abey, and  
Stantec Consulting Inc.) to provide landscape architectural and related services to the  
City for a period of three (3) years, and

WHEREAS, staff is proposing to rotate between the 6 consultants on the short-list  
for all projects when landscape architectural services are needed, by either notifying the  
next company on the list or determining the company best suited for the specific project,  
and

WHEREAS, at that time, an agreement with a detailed scope of work will be  
negotiated between the City and the Consultant, based upon the specific tasks required,  
and

WHEREAS, for professional service agreements under \$50,000, the City  
Attorney's Office, the Risk Manager and the City Manager's Office will review the  
agreement before the appropriate staff signs it, and

WHEREAS, for professional service agreements over \$50,000 and under  
\$300,000, the City Attorney's Office, the Risk Manager and the City Manager's Office  
will review the agreement before staff forwards to the City Council for approval, and

WHEREAS, for professional service agreements over \$300,000, staff will not use the short-list to select a landscape architect but will complete a separate Request for Proposals, which will follow the standard RFP process, and

WHEREAS, the Safety and Communities Committee met on January 3, 2005, and supported the recommendation to select six firms (Beals Alliance, Callander Associates Inc., The HLA Group, O'Dell Engineering, Royston Hanamoto Alley & Abey, and Stantec Consulting Inc.) to provide landscape architectural and related services to the City for a period of three (3) years, and

WHEREAS, the Safety and Communities Committee further recommended that a cap be placed on the amount of the contract awarded through this process, so that larger projects will benefit from a separate competitive RFP process for hiring a landscape architect, and

WHEREAS, staff recommends a cap on the short-list of \$300,000 per project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby selects Beals Alliance, Callander Associates Inc., The HLA Group, O'Dell Engineering, Royston Hanamoto Alley & Abey, and Stantec Consulting Inc. to provide landscape architectural and related services to the City for a period of three (3) years.

BE IT FURTHER RESOLVED by the Council that the maximum contract amount shall not exceed \$300,000 per project 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**On-Call Landscape Architectural Service Provider List**

**(Maximum contract amount not to exceed \$300,000 per project agreement)**

Valid January 2005 through January 2008

**Beals Alliance**

Derek McKee, Principal  
2455 The Alameda, Suite 200  
Santa Clara, CA 95050  
Tel: (408) 985-7200  
Fax: (408) 985-7260

**Callander Associates Landscape Architecture, Inc.**

Erik Smith, Principal  
11180 Sun Center Drive, Suite 104  
Rancho Cordova, CA 95670-6167  
Tel: (916) 631-1312  
Fax: (916) 635-9153

**The HLA Group, Landscape Architects & Planners, Inc.**

Steven Canada, Principal Landscape Architect  
1990 Third Street, Suite 500  
Sacramento, CA 95814  
Tel: (916) 447-7400  
Fax: (916) 447-8270

**O'Dell Engineering**

Randy O'Dell, Principal/President  
1165 Scenic Drive  
Modesto, CA 95350  
Tel: (209) 571-1765  
Fax: (209) 571-2466

**Royston Hanamoto Alley & Abey**

Harold Kobayashi, Principal  
225 Miller Avenue  
Mill Valley, CA 94941  
Tel: (415) 383-7900  
Fax: (415) 383-1433

**Stantec Consulting, Inc.**

Todd Rhoads, Managing Principal  
2590 Venture Oaks Way  
Sacramento, CA 95833  
Tel: (916) 569-2500  
Fax: (916) 921-9274

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-051**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$1.8 MILLION IN THE 2005-2006 BICYCLE TRANSPORTATION ACCOUNT ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE APPLICATION.**

WHEREAS, the State of California has made funding available through the Department of Transportation's Bicycle Transportation Account for Fiscal Year 2005-2006, and

WHEREAS, development of the Virginia Corridor Project (the "Project") is consistent with the Bicycle Transportation Act of the State Of California's Department of Transportation programs, and

WHEREAS, said procedures established by the State of California's Department of Transportation require the applicant's governing body to certify by resolution the approval of the application 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,

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 \$1.8 million in local assistance funds from the State of California's Department of Transportation through the Bicycle Transportation Account for Fiscal Year 2005-2006; and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the Acting 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 25th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-052**

**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 Acting 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. Legal Secretary
2. Instrument Repair Technician

Said classifications are being amended to revise the job specifications to update the essential functions and the experience and training guidelines to more accurately reflect the needs of each classification.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 25, 2005.

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## LEGAL SECRETARY

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 responsible legal secretarial and general clerical duties in support of the City Attorney's Office; and to provide secretarial and administrative support to the attorneys.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Legal Services Administrator. Exercises 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:

Perform litigation-related work assignments as directed.

Transcribe a variety of dictation tapes containing correspondence and legal documents, including resolutions, ordinances, legal opinions, contracts, briefs, leases and agreements.

Prepare and process correspondence, legal papers and documents requiring knowledge of legal format, terminology and procedures.

Act as receptionist providing information and assistance to the public; screen telephone calls and requests for information, routing to appropriate staff member, department or agency.

Index and file legal documents; assist in maintaining law library.

Compile and organize agenda materials and information for City Attorney's use in preparing documents for City Council agenda and in providing legal assistance including preparation of documents to City Manager and City departments.

Essential Functions: (Continued)

Compile and assemble various legal materials from files and other sources for City Attorney's use in providing legal assistance and in preparation of other legal documents and opinions.

Perform general clerical work including filing, scheduling appointments and meetings, and processing payroll, account payable and reimbursement requests.

Sort and file documents and reports according to predetermined classifications maintaining alphabetical, index and cross-reference files.

Perform administrative duties within the clerical support system; recommend improvements in work flow, procedures and use of equipment and forms; perform special projects and assignments as requested.

Provide secretarial support to the professional legal staff; maintain appointment calendars, schedule meetings and prepare travel arrangements.

Maintain litigation calendars; record follow-up trial dates, action dates and deposition of cases.

Contact the public and outside agencies in acquiring and providing information and making referrals.

Receive, sort and distribute incoming and outgoing correspondence.  
Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Legal terminology and the forms and documents used in legal clerical work.

Legal procedures and practices involved in composing, processing, and filing a variety of legal documents.

Computer software programs such as WordPerfect, Word, Compulaw or other electronic calendaring program, Legal Solutions, Excel, and PowerPoint.

Modern office procedures, methods and computer equipment.

Business letter writing and basic report preparation.

Principles and procedures of record keeping.



Knowledge of: (Continued)

English usage, spelling, grammar and punctuation.

Filing and record keeping systems.

Municipal organization and local governmental agencies.

City policies and procedures.

Ability to:

Exercise good judgment and discretion.

Work with and control sensitive and confidential information.

Prepare a wide variety of legal documents both independently and as directed.

Prepare reports and correspondence independently.

Read, interpret, and apply policies, laws, rules and regulations.

Perform accurate, responsible legal secretarial and clerical work.

Function as part of a team, assisting co-workers with workloads as needed.

Communicate clearly and concisely, both orally and In writing.

Type at a speed necessary for successful job performance.

Transcribe dictation tapes at a speed necessary for successful job performance.

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 responsible secretarial experience, including three years of litigation experience in a legal office.

Training:

Equivalent to the completion of the twelfth grade supplemented by additional specialized training in legal secretarial work 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; occasionally travel from site to site.

Physical Conditions:

Essential and 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.

## 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 testing, installation, maintenance and repair of all pneumatic, electronic and electrical control systems relative to the water and wastewater 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.

Maintain a variety of electronic control instruments used to operate electrical mechanical equipment, record data, indicate equipment status and activate supervisory control.

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.

Essential and Marginal Function Statements (Continued)

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

~~Perform electrical maintenance.~~

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 electrical and electronic 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.

Install, repair and maintain a variety of electronic systems relative to water treatment operations.

Operate and use a personal computer.

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 experience in industrial electrical systems and electronics involving the calibration, set-up and testing of electronic instrumentation.

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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 053**

**A RESOLUTION ACCEPTING A THREE-YEAR GRANT IN THE AMOUNT OF \$306,628 AND APPROVING THE "PROJECT SAFE NEIGHBORHOODS FOR STANISLAUS COUNTY," A GRANT PROGRAM OF THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, ADMINISTERED BY THE CALIFORNIA PEACE OFFICERS' ASSOCIATION, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS**

WHEREAS, the Modesto Police Department and the Stanislaus County Sheriff's Office proposed a project to the U.S. Bureau of Justice Assistance for "Project Safe Neighborhoods for Stanislaus County," a program to reduce gun and gang violence, and

WHEREAS, the project proposed the reduction of gun and gang violence in the County through a combined Modesto Police Department / Stanislaus Sheriff's Office program to target gangs and gang violence, especially gun violence, and

WHEREAS, said project will be funded by a grant from the U. S. Department of Justice, bureau of Justice Assistance and administered by the California Peace Officers' Association (hereinafter referred to as "CPOA"), and

WHEREAS, said project was accepted for funding for a period of three years in the amount of \$306,628, with no local match required, and

WHEREAS, the City of Modesto desires to undertake the "Project Safe Neighborhoods for Stanislaus County" to reduce gun and gang violence, and

WHEREAS, the project will provide important support to the Countywide Gang Intelligence Unit and the City of Modesto's Street Crimes Unit, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of January 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the three-year grant from the U. S. Department of Justice in the amount of \$306,628 and approves the “Project Safe Neighborhoods for Stanislaus County.”

BE IT FURTHER RESOLVED that the Acting City Manager, or his authorized designee, is hereby authorized to submit the project proposal to the CPOA and to execute the Grant Award Agreement with the U.S. Department of Justice, Bureau of Justice Assistance including any extensions or amendments thereof.

BE IT FURTHER RESOLVED that any liability arising out of the performance of this Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The U.S. Department of Justice, U.S. Attorney’s Office, Eastern District of California and CPOA disclaim responsibility for any such liability.

BE IT FURTHER RESOLVED by the Council of the City of Modesto 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 25<sup>th</sup> day of January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-054**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR THE “PROJECT  
SAFE NEIGHBORHOODS FOR STANISLAUS COUNTY” GRANT**

WHEREAS, the Modesto Police Department and the Stanislaus County Sheriff’s Office proposed a project to the U.S. Department of Justice, Bureau of Justice Assistance for grant funding for “Project Safe Neighborhoods for Stanislaus County,” a program to reduce gun and gang violence, and

WHEREAS, said project proposed the reduction of gun and gang violence in the County of Stanislaus through a combined Modesto Police Department / Stanislaus Sheriff’s Office program to target gangs and gang violence, especially gun violence, and

WHEREAS, said project was accepted for grant funding for a three-year project in the amount of \$306,628, with no local match required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as follows:

To:			
Revenue:	\$99,216	0410-190-2965-3200	\$99,216
		Project Safe Neighborhoods	
To:			
Appropriations:	\$99,216	0410-190-2965	\$99,216
		Project Safe Neighborhoods –	
		Various Accounts	

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 25<sup>th</sup> day of January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-055**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO THE JOINT  
POWERS AGREEMENT OF THE STANISLAUS DRUG ENFORCEMENT  
AGENCY AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE  
THE AMENDMENT**

WHEREAS, the Stanislaus Drug Enforcement Agency has provided a coordinated multiagency specially trained police unit to suppress illegal drug trafficking in the County of Stanislaus, and

WHEREAS, all facets of the operations of the Drug Agency are stipulated in the Joint Powers Agreement (JPA) executed in 1999 by the County of Stanislaus, the City of Modesto and the other cities in the County of Stanislaus, and

WHEREAS, rotation of day-to-day management of the operations of the Agency and the chair of the JPA governing committee is stipulated to be every five years, and

WHEREAS, parties to the JPA desire that that rotation be delayed for one year to late 2005, and

WHEREAS, the Safety and Communities Committee unanimously recommended this action at its meeting of January 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the First Amendment to the Stanislaus Drug Enforcement Agency Joint Powers Agreement is hereby approved.

BE IT FURTHER RESOLVED that the Acting City Manager is hereby authorized to execute the First Amendment to 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 25<sup>th</sup> day of January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 056**

**A RESOLUTION APPROVING AN AGREEMENT WITH SYLVAN UNION SCHOOL DISTRICT IN THE AMOUNT OF \$38,380 FOR THE PROVISION OF ONE MODESTO POLICE OFFICER TO INSTRUCT THE DRUG ABUSE RESISTANCE EDUCATION CURRICULUM, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Sylvan Union School District requires one Modesto Police Officer to instruct the Drug Abuse Resistance Education (D.A.R.E.), and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer to serve as a classroom instructor to teach the D.A.R.E. curriculum to its third, fifth and seventh graders and take any enforcement action at the district school sites, if warranted, and

WHEREAS, the D.A.R.E. curriculum teaches positive self-esteem and the skills to refuse drugs and negative behavior, and

WHEREAS, the officer's presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the Safety and Communities Committee unanimously recommended this action at its meeting of January 3, 2005, and

WHEREAS, the term of this agreement is July 1, 2004 to June 30, 2005, and

WHEREAS, the City shall be compensated \$38,380 for the services of this Modesto Police Officer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Sylvan Union School District in the amount of \$38,380.

BE IT FURTHER RESOLVED that the Acting City Manager 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-057**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR ONE MODESTO  
POLICE OFFICER TO TEACH THE DRUG ABUSE RESISTANCE  
EDUCATION AT THE SYLVAN UNION SCHOOL DISTRICT**

WHEREAS, the Sylvan Union School District requires one Modesto Police Officer to instruct the Drug Abuse Resistance Education (D.A.R.E.), and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer to serve as a classroom instructor to teach the D.A.R.E. curriculum to its third, fifth and seventh graders and take any enforcement action at the district school sites, if warranted, and

WHEREAS, the term of this agreement is July 1, 2004 to June 30, 2005, and

WHEREAS, the City shall be compensated \$38,380 for the services of this Modesto Police Officer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as follows:

	<u>Amount:</u>	<u>Account Number:</u>	<u>Account Name:</u>
To Revenue:	\$38,380	0100-190-1921-3729	Youth Services- D.A.R.E.
To Appropriations:	\$38,380	0100-190-1921-0100's	Salaries and Benefits

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-058**

**A RESOLUTION PROVIDING FOR THE SALE OF SURPLUS PROPERTY BY SEALED BID, PUBLIC AUCTION OR AS SCRAP FOR THE PERIOD OF FEBRUARY 1, 2005, THROUGH JANUARY 1, 2006.**

WHEREAS, the City Manager is authorized by City Charter Section 801 to sell surplus personal property of the City of Modesto with the approval of the City Council, and

WHEREAS, the City's surplus items consist of (1) obsolete traffic signal heads; (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; (3) and surplus City vehicles, and

WHEREAS, it is the intent of the City Purchasing Division to seek City Council approval annually for the disposition of surplus property in accordance with Section 801 of the City Charter, and

WHEREAS, by approving an annual staff report for the disposition of surplus property, without returning to City Council for subsequent approval, the City will save substantial staff and processing time, and

WHEREAS, the estimated gross revenue to be received from the sale of surplus property from February 1, 2005, through January 31, 2006, is \$100,000.00 to 175,000, and

WHEREAS, by Resolution No. 2001-423, the City's current auction agreement entered into on August 14, 2001, provides for auctioneering services by The Auction House at their facility located at 824 Kiernan Avenue, in Modesto, and

WHEREAS, the City's Purchasing Division has recommended on occasion that specific surplus property could best be sold on a sealed bid basis; however, if said property does not sell on a sealed bid basis, said property shall then be sold at a public auction to be conducted by The Auction House, and

WHEREAS, should the sealed bid process or the public auction process not bring the desired result, City staff proposes that the property shall be sold for scrap, and

WHEREAS, the list of items to be sold at auction or surplus will be on file in the office of the City Clerk, and

WHEREAS, the Central Stores Manager will be permitted to call The Auction House to coordinate pick-up of surplus property (such as vehicles) after the appropriate surplus property forms have been approved by the Purchasing Division, and

WHEREAS, after an auction is held, the Purchasing Division will prepare a recap memorandum to account for the items sold and the proceeds obtained for the auction, and

WHEREAS, the Purchasing Division will submit said recap memorandum to the Finance Director and will have the proceeds (less administrative fee's) deposited to the proper accounts,

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 in December of each year for annual approval for the disposition of surplus property in accordance with Section 801 of the City Character.

SECTION 2. 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 3. If said property cannot be sold 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 4. If said property cannot be sold on a sealed bid basis or the public auction process, then said property may be sold for scrap.

SECTION 5. The City Central Stores Manager is hereby authorized to contact The Auction House to coordinate pick-up for surplus property after the necessary surplus property forms have been approved by the Purchasing Division.

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 059**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS (RFB) FOR SIX (6), MODEL 170E CONTROLLERS AND MODEL 332 CABINETS FOR TRAFFIC SIGNAL CONTROL FOR AN ESTIMATED TOTAL COST OF \$50,000.**

WHEREAS, the Public Works Department has requested the purchase of six (6), Model 170E Controllers and Model 332 Cabinets for traffic signal control for an estimated cost of \$50,000, and

WHEREAS, the Model 170E controller assemblies consisting of Model 170E controller units, and wired Model 332 cabinets and all auxiliary equipment are required to control the signal indications for full eight (8) phase signal operation, and

WHEREAS, the Model 170E Controller conforms to Traffic Signal Control Equipment Specification used by the State of California, and

WHEREAS, these units will be used to replace damaged units, as well as units which have been in use for over twenty (20) years at various City-wide locations, and

WHEREAS, by soliciting formal bids for six (6), Model 170E Controllers and Model 332 Cabinets, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

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 six (6), Model 170E Controllers and Model 332 Cabinets for an estimated total cost of \$50,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of six (6), Model 170E Controllers and Model 332 Cabinets 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 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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 - 060**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE REBUILDING OF  
NINE (9), 1990 GILLIG/LIFT-U WHEELCHAIR LIFTS FOR AN ESTIMATED  
TOTAL COST OF \$76,500**

WHEREAS, the Public Works Department-Fleet Services has requested the purchase for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, and

WHEREAS, the wheelchair lifts on our City of Modesto buses must be kept to the highest standards of repair and maintenance for the safety of our ADA customers, and

WHEREAS, the current lifts in our 1900 Gillig are the original lifts that were purchased with the buses, and

WHEREAS, the life cycle on these lifts average twelve (12) years and our lifts are now fourteen (14) years old, and

WHEREAS, due to solid preventive maintenance programs, we have been able to stretch the life of these lifts to the current fourteen-year point, and

WHEREAS, we closely watch the types of repairs that are becoming necessary and the overall annual motors types of failures, and

WHEREAS, all indicators are showing us that it is time to rebuild or replace the lifts, and the cost of the new lifts are generally double the cost of using a rebuild program,

WHEREAS, the rebuild program that is currently being offered by the original manufacturer of our lifts is the most cost effective option as it would bring the lifts back to the original manufactured specification with a full factory warranty, and



WHEREAS, funding for rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts is budgeted in account number 6540-480-5612-5600, and

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

WHEREAS, by soliciting formal bids for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to solicit formal Request for Bids (RFB) for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts for an estimated total cost of \$76,500 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of rebuilding nine (9), 1990 Gillig/Lift-U Wheelchair Lifts for an estimated total cost of \$76,500 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 25th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

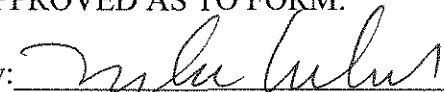
ABSENT: Councilmembers: None

ATTEST:

  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By:

  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-061**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT REQUEST FOR BIDS (RFB) FOR CONCRETE BOXES AND COVERS, AND CAST IRON COVERS AND FRAMES FOR A ONE-YEAR PERIOD, WITH AN ESTIMATED TOTAL ANNUAL COST OF \$75,000.00**

WHEREAS, various city departments have requested the purchase of concrete boxes and covers, and cast iron covers and frames, and

WHEREAS, the Finance Department, Central Stores Division is responsible for Maintaining inventory for concrete boxes and covers, and cast iron covers and frames (See Exhibit C) for use by all departments for Citywide projects, and

WHEREAS, the need and specifications for these materials have been developed over time through collaboration between Central Stores staff and division personnel requesting the said materials, and

WHEREAS, by soliciting competitive bids for concrete boxes and covers, and cast iron covers and frames, the Finance Department-Purchasing Division will comply with the Modesto City Code (MMC), Section 8-3.203, Formal Bid Procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal RFB for concrete boxes and covers, and cast iron covers and frames as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for concrete boxes and covers, and cast iron covers and frames for a one-year period (See Exhibit C) 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 25th day of January 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-062**

**A RESOLUTION AMENDING THE 2004-2005 BUDGET TO RECOGNIZE AND  
APPROPRIATE AN ANONYMOUS DONATION IN THE AMOUNT OF \$28,000,  
FOR FISCAL YEAR 2004-2005**

WHEREAS, City Traffic Engineering staff received a request from a Modesto citizen, who would like to remain anonymous, to install a lighted crosswalk on Snyder Avenue at Saint Nicholas, and

WHEREAS, the citizen has committed up to \$28,000 for said equipment and installation of the lighted crosswalk, and

WHEREAS, a Capital Improvement Program (CIP) project titled, "Snyder Lighted Crosswalk," will be created in the amount of \$28,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2004-2005 Budget to recognize and appropriate an anonymous donation in the amount of \$28,000 for fiscal year 2004-2005, for the purchase of equipment and installation of a lighted crosswalk on Snyder Avenue at Saint Nicholas.

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 25th day of January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-063**

**A RESOLUTION AMENDING THE 2004-2005 CAPITAL IMPROVEMENT PROGRAM (CIP) TO INCLUDE THE “INSTALLATION OF A LIGHTED CROSSWALK ON SNYDER AVENUE AT SAINT NICHOLAS,” PROJECT USING FUNDS IN THE AMOUNT OF \$28,000 ANONYMOUSLY DONATED TO THE CITY OF MODESTO**

WHEREAS, City Traffic Engineering staff received a request from a Modesto citizen, who would like to remain anonymous, to install a lighted crosswalk on Snyder Avenue at Saint Nicholas, and

WHEREAS, the citizen committed up to \$28,000 for the equipment and installation of the lighted crosswalk, and

WHEREAS, the plan is to have the citizen purchase and provide the City with the lighted crosswalk equipment per City standards, and

WHEREAS, City Electrical staff will install the equipment, and

WHEREAS, the equipment and installation can be done for \$28,000 or less, and

WHEREAS, a CIP project titled, “Snyder Lighted Crosswalk,” will be created in the amount of \$28,000, and

WHEREAS, acceptance and appropriation of the donated funding in the amount of \$28,000 requires amending the City’s CIP to include this project, since it was not included at the time the CIP was considered for adoption, and

WHEREAS, staff recommends the City take advantage of the donated funds in the amount of \$28,000 to increase safety and encourage pedestrian use in this neighborhood, and

WHEREAS, the Economic Development Committee (EDC) at their December 13, 2004, meeting reviewed and concurred with staff's recommendation to install a lighted crosswalk on Snyder Avenue at Saint Nicholas.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2004-2005 Capital Improvement Program (CIP) to include the, "Snyder Lighted Crosswalk," CIP project using funds in the amount of \$28,000 anonymously donated to the City of Modesto,

BE IT FURTHER RESOLVED that City staff is hereby authorized to install the equipment for said lighted crosswalk with City crews,

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 25th day of January 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

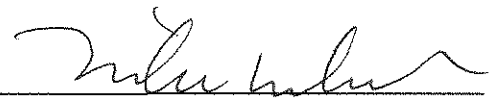
AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-064**

**A RESOLUTION GRANTING A TEMPORARY EXCEPTION TO THE  
MODESTO MUNICIPAL CODE (MMC) SECTION 4-5.10 PROHIBITING  
ADVERTISING BANNERS IN ORDER TO HANG A BANNER OVER I STREET  
FROM MARCH 7 THROUGH MARCH 11, 2005 CELEBRATING MODESTO'S  
25<sup>TH</sup> YEAR AS A TREE CITY USA**

WHEREAS, the Tree City USA program is conducted by the National Arbor Day Foundation in conjunction with the National Association of State Foresters, and

WHEREAS, to qualify as a Tree City in a given year, a jurisdiction must have a tree board or department responsible for tree care (and a tree ordinance establishing or designating such), have an urban forestry program supported by the spending of at least \$2 per capita and have a proclamation recognizing and celebrating Arbor Day, and

WHEREAS, this year (2005) marks Modesto's 25<sup>th</sup> year as a Tree City USA-designated community, and

WHEREAS, in the state of California, only six other cities have received this designation for more years than Modesto, and

WHEREAS, to celebrate this monumental anniversary, the Forestry Division proposes hanging a banner, and

WHEREAS, the proposed location for said banner is across I Street, between 8<sup>th</sup> and 9<sup>th</sup> Street, and

WHEREAS, the proposed banner, which will be 20-30 feet long and 2-1/2 feet tall, will be in place from March 7 through March 11, 2005, to coincide with Arbor Day, and

WHEREAS, the lettering on the proposed banner will read:

“Celebrating 25 years TREE CITY USA”, and

WHEREAS, Section 4-5.10 of the Modesto Municipal Code prohibits advertising devices from being stretched across City streets, and

WHEREAS, this temporary exception to the Modesto Municipal Code proclaims a monumental anniversary for the City, and

WHEREAS, this will be coordinated with the Downtown Improvement District and the Greater Modesto Tree Foundation, and

WHEREAS, the City has budgeted \$800 for the Tree City USA Banner in the Community Forestry Division, and

WHEREAS, the City will continue to seek funding partnerships, and

WHEREAS, at its meeting of January 10, 2005, the Economic Development Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby grants a temporary exception to MMC Section 4-5.10 prohibiting advertising banner in order for the City to hang a banner over I Street from March 7 through March 11, 2005, celebrating Modesto’s 25<sup>th</sup> year as a Tree City USA.

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 January 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-065**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO  
SOLICIT A REQUEST FOR PROPOSALS (RFPs) FOR ON-CALL  
ENGINEERING SERVICES FOR THE PUBLIC WORKS WASTEWATER  
COLLECTIONS DIVISION**

WHEREAS, the Wastewater Collections Division anticipates tasks that can be best accomplished with the maximum efficiency and effectiveness of outside consultant engineers providing targeted services, and

WHEREAS, last year, Wastewater Collection's engineering consultants combined with internal expertise, assisted in the thorough compilation of asset information on the City's sanitary sewage system final asset analysis, and

WHEREAS, a number of related, short-term projects are projected for the coming years which could involve numerous small projects ranging from trenchless technology to lift station efficiency analysis, and

WHEREAS, there is insufficient in-house staff to perform these On-call engineering services, and

WHEREAS, the Public Works Department desires to solicit a Request for Proposals (RFPs) for On-call engineering services for the Wastewater Collections Division for a one-year agreement, with four (4) one-year extension options, at an anticipated cost of \$44,000 per year, for outside consultant engineers to assist with short-term projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to solicit RFPs for On-call

engineering services for the Wastewater Collections Division for a one-year agreement, with four (4) one-year extension options, at an anticipated cost of \$44,000 per year.

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 January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-066**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH  
DEL VALLE CAPITAL CORPORATION, INC. (DEL VALLE) TO ALLOW  
FINAL INSPECTION AND OCCUPANCY OF CERTAIN HOMES PRIOR TO  
COMPLETION AND ACCEPTANCE OF INFRASTRUCTURE  
IMPROVEMENTS IN GALAS BROTHERS UNIT NO. 1 AND UNIT NO. 2  
SUBDIVISIONS, AND AUTHORIZING THE ACTING CITY MANAGER OR  
HIS DESIGNEE TO EXECUTE THE AMENDMENT ON BEHALF OF THE  
CITY**

WHEREAS, the City entered into an agreement with Del Valle on December 23, 2003, which required Del Valle to complete necessary infrastructure prior to final inspection or occupancy of any home within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, and

WHEREAS, due to unforeseen circumstances, Del Valle is unable to complete the necessary infrastructure improvements for the water system for several more months, and

WHEREAS, this delay is impacting Del Valle's ability to meet contractual obligations with third party home builders, and

WHEREAS, Del Valle has proposed an amendment to its Agreement with the City to allow for phasing in of the water infrastructure in order to allow for occupancy of a limited number of units prior to final infrastructure completion, and

WHEREAS, this amendment will allow Del Valle to meet commitments and obligations it has made to third party home builders while ensuring the City's infrastructure needs are minimally met, and

WHEREAS, due to time constraints, this item was not considered by a Council Committee, and

WHEREAS, the costs of the proposed "phased" improvements are estimated at \$136,000 and Del Valle has agreed to pay \$100,000 toward these improvements, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for an 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 No. EA/C&ED 2002-59 reviewed the proposed project to determine whether the project is within the scope of the Fairview Specific Plan EIR, and made the determination that the project will have no additional significant effect on the environment that was not identified in the 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 EIR,

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 2002-59, 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. As per Section 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Fairview Village Focused EIR (SCH No. 95032006) and no new environmental document or findings are required by CEQA.
2. There are no substantial changes proposed in the project which will require major revisions to the Fairview Village Focused EIR.



3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Fairview Village Focused EIR.
4. No new information of substantial importance, which was not known and could not have been known at the time the Fairview Village Focused EIR was certified as complete, has become available.
5. The Initial Study, Environmental Assessment EA/C&ED 2002-59, provides the substantial evidence to support findings 1-4 above.

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Acting City Manager, or his designee, is hereby authorized to execute the Amendment to 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 25<sup>th</sup> day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:   
MICHAEL D. MILICH, City Attorney

City of Modesto  
Initial Study

**First Amendment to Development Agreement Between the City of Modesto  
and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle  
Capital Corporation, Inc.**

**EA/CDD 2002-59**  
October 30, 2002

**I. PURPOSE**

On December 12, 1995, the Modesto City Council certified the Final Focused Environmental Impact Report for the Fairview Village Specific Plan (SCH# 95032006). This Final Focused EIR analyzed the impacts of build-out of the Fairview Village Specific Plan, which includes the area in which this project is proposed.

Section 15182 of the CEQA Guidelines allows the Fairview Village Specific Plan Final Focused EIR to be used for subsequent projects, if the following findings can be made:

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

**II. PROJECT DESCRIPTION**

- A. Project title:  
First Amendment to Development Agreement Between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc.
- B. Lead agency name and address:  
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:  
Steve Mitchell, Community Development Department, (209) 577-5287
- D. Project Location:  
The south side of Hatch Road west of Dezzani Lane and Ironside Drive.
- E. Project Sponsor:  
Del Valle Capital Corporation, 1012 Tenth Street, Modesto, CA 95354

- F. General Plan Designation:  
Village Residential (VR)
- G. Current Zoning:  
Specific Plan-Overlay (SP-O) Zone
- H. Description of Proposed Project:  
This is an amendment to the development agreement for the Galas Brothers vesting tentative subdivision map. The purpose of the development agreement is to extend the life of the tentative map to June 30, 2003, to provide a commitment to make available a percentage of the houses to low and moderate income families, and to provide a commitment to do storm drainage master planning.
- I. Surrounding land uses:  
The project is surrounded on the north by existing ranchettes, to the east by existing single-family homes, and to the south and west by agricultural land designated in the Specific Plan for residential development.
- J. Other public agencies whose approval is required:  
None

**III. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS**

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report

Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of the Fairview Village Specific Plan Final Focused EIR:

**1. Traffic and Circulation Needs**

Impacts to traffic and circulation are discussed on pages 18 through 42 of the Fairview Village Specific Plan Final Focused EIR. The approved subdivision is consistent with the Fairview Village Specific Plan in land use and intensity, and will have access to adjacent streets consistent with the Specific Plan. This development agreement will not affect the traffic and circulation design of the subdivision. Therefore, the traffic generation from this development is consistent with the assumptions in the EIR, and there would be no change needed to this section of the EIR.

**2. Degradation of Air Quality**

Impacts to air quality are analyzed on pages 43 through 47 of the Fairview Village Specific Plan Final Focused EIR. Air quality impacts are directly related to traffic impacts for this project, as automobile exhaust emissions account for the vast majority of impacts to air quality in a residential development. Since the traffic impacts are consistent with those analyzed in the EIR, the air quality impacts are also consistent with those analyzed in the EIR.

**3. Noise**

Noise impacts are analyzed on pages 48 through 54 of the Fairview Village Specific Plan Focused EIR. The Galas Brothers subdivision is consistent with the Fairview Village Specific Plan in land use and intensity, and will have sound a wall along Hatch Road. The development agreement does not affect the land use, intensity or layout of the subdivision. Therefore, there would be no change needed to this section of the EIR.

**4. Loss of Productive Agricultural Land**

Loss of productive agricultural land is analyzed on pages 55 through 59 of the Fairview Village Specific Plan Focused EIR. The Galas Brothers subdivision is consistent with the Specific Plan in land use and intensity. Therefore, there would be no additional impacts to agricultural land with this development agreement, and no change needed to this section of the EIR.

**5. Loss of Sensitive Wildlife and Plant Habitat**

Impacts to sensitive wildlife and plant habitat are analyzed on pages 60 through 64 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use, intensity and physical location. Therefore, there would be no additional impacts to sensitive wildlife and plant habitat with this development agreement, and no change needed to this section of the EIR.

**6. Disturbance of Archaeological or Historical Sites**

Impacts to cultural resources are analyzed on pages 65 through 68 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use, intensity and physical location. Therefore, there would be no additional impacts to cultural resources with this development agreement, and no change needed to this section of the EIR.

**7. Increased Demand for Schools**

Demand for schools is analyzed on pages 69 through 73 of the Fairview Village Specific Plan Focused EIR. It concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, this conclusion remains valid, and no changes are needed to this section of the EIR.

**8. Generation of Hazardous Materials**

Generation of hazardous materials is analyzed on pages 74 through 76 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use and intensity. Because this development agreement would not affect the land use and intensity of the subdivision, no changes are needed to this section of the EIR.

- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Fairview Village Specific Plan Focused EIR was certified by the Modesto City Council on

December 12, 1995. In the period since then, there has been no significant development in the surrounding area, and physical conditions affecting the subdivision have not changed significantly since then. Therefore, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Fairview Village Specific Plan Focused EIR or General Plan Master EIR.

- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Fairview Village Specific Plan Focused EIR was certified by the Modesto City Council on December 12, 1995. Since then, there is no new information, which was not known at the time the Fairview Village Specific Plan Focused EIR was certified, has become available, that would change the conclusions of the EIR.

#### **IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS**

- A. There are no substantial changes proposed in the project which will require major revisions of the Fairview Village Specific Plan Focused EIR.
- B. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Fairview Village Specific Plan Focused EIR.
- C. No new information, which was not known and could not have been known at the time the Fairview Village Specific Plan Focused EIR was certified as complete, has become available.
- D. This initial study provides substantial evidence to support findings A, B and C, above.

Signature:



Steve Mitchell,  
Principal Planner

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-067**

**RESOLUTION ACCEPTING THE WORK BY INDUSTRIAL ELECTRICAL CO., FOR THE “EMERGENCY POWER ADDITION AT WATER WELLS 25, 43, 225, 282, 298, 299, 302, AND 313” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$601,355 PER THE CONTRACT. TOTAL PROJECT COST IS \$680,524**

WHEREAS, a report has been filed by the Public Works Director that the project titled “Emergency Power Addition at Water Wells 25, 43, 225, 282, 298, 299, 302, and 313” has been completed by Industrial Electrical Co., in accordance with the contract agreement dated May 11, 2004.

NOW, THEREFORE, BE IT RESOLVED that the “Emergency Power Addition at Water Wells 25, 43, 225, 282, 298, 299, 302, and 313” project be accepted from said contractor, Industrial Electrical Co., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$601,355, 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 25th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-068**

**A RESOLUTION APPROVING THE FINAL MAP OF THE KODIAK VILLAGE I SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH MERITAGE HOMES OF CALIFORNIA, A CALIFORNIA CORPORATION**

WHEREAS, MERITAGE HOMES OF CALIFORNIA, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 38.97 acres, known as the KODIAK VILLAGE I SUBDIVISION (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on December 4, 2003, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 15<sup>th</sup> day of December, 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 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 25th day of January, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-069**

**A RESOLUTION APPROVING AN AMENDMENT TO THE COFFEE/  
CLARATINA SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION  
OF APPROXIMATELY TEN ACRES LOCATED EAST OF MCHENRY  
AVENUE AND SOUTH OF THE CLARATINA EXPRESSWAY FROM  
REGIONAL COMMERCIAL (RC) TO RESIDENTIAL (R). (RESOURCE  
DEVELOPMENT)**

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 June 2, 1998, the City Council by Resolution No. 98-294 adopted the Coffee/Claratina Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, on November 16, 1999, the City Council by Resolution No. 99-565 adopted Amendment No. 1 to the Coffee/Claratina Specific Plan to allow for Mixed Uses along Coffee Road, and

WHEREAS, Resource Development has filed an application to amend the Coffee/Claratina Specific Plan (File No. P-SPA-04-003) to redesignate approximately ten acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), and

WHEREAS, the proposed project was referred to affected agencies in accordance to California Government Code Sections 65352 and 65453 (a), and

WHEREAS, on December 20, 2004, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Coffee/Claratina Specific Plan was considered, and

WHEREAS, after said public hearing held on December 20, 2004, the Planning Commission adopted Resolution No. 2004-72, recommending to the City Council an amendment to the Coffee/Claratina Specific Plan to redesignate approximately ten acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 25, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Coffee/Claratina Specific Plan, and

WHEREAS, concurrent with consideration of this proposed amendment to the Coffee/Claratina Specific Plan, the City Council received and considered an Initial Study (EA/C&ED No. 2004-70) and adopted Resolution No. 2005- xx finding that the proposed Amendment is within the scope of, and conforms to the City's Master Environmental Impact Report.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby considers the proposed amendment to the Coffee/Claratina Specific Plan to redesignate approximately ten acres located east of McHenry Avenue and south of

Claratina Avenue from Regional Commercial (RC) to Residential (R) and makes the following findings:

1. The project is consistent with the Modesto Urban Area General Plan, because it meets the Amendment Criteria set forth in Section II-C (4) of the General Plan in that the site is in an appropriate location for single residential development in that commercial development has access limitations, it is compatible with nearby residential development, traffic circulation and air quality impacts will be reduced, it will not affect land designated as Open Space in the General Plan, and public services and facilities can be provided.
2. The project is consistent with the intent of the Coffee/Claratina Specific Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Coffee/Claratina Specific Plan is hereby amended to read as shown on Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this Specific Plan Amendment (File No. SPA-04-003). 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 25th day of January 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

## EXHIBIT "A"

### COFFEE-CLARATINA SPECIFIC PLAN, PROPOSED AMENDMENTS

#### Page 1-1

1. ~~130~~ 125 acres designated "residential" for a maximum of ~~1,000~~ 1,100 dwelling units.
2. ~~40~~ 30 acres designated "regional commercial".
3. 15 acres of "Mixed Community Commercial" is allowed along Coffee Road.
4. Implementing adopted City General Plan policies.

#### Page 1-3

\_\_\_\_\_ See attached new Figure 2.

#### Page 2-2

\_\_\_\_\_ See attached new Figure 4

#### Page 2-3

**a. Residential (R).** The R designation accommodates single family residential uses. The maximum permitted number of units for the entire Specific Plan area shall be ~~1,000~~ 1,100 as set forth in the Modesto Urban Area General Plan. Areas designated R utilize the City's R-1 zone 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 ~~1,000~~ 1,100 dwelling unit maximum is not exceeded. Churches, parks and school sites can develop residentially and are consistent with this category. ....

#### Page 2-4

**d. Regional Commercial (RC).** The regional commercial designation applies to ~~40~~ 30 acres, including the area within the Hetch-Hetchy R.O.W., located along McHenry Avenue (State Hwy. 108) to join the established commercial uses on McHenry Avenue. Land use and development standards shall be as set forth in the City's C-3 zoning designation contained in Article 12 of the Modesto Zoning Ordinance. Performance standards deemed necessary by the commission shall be required at that time.

### 1. Sanitary Sewer Service (See Figure 6)

The existing 18" subtrunk sewer main at Coffee Road and Sylvan Meadows Drive will be utilized to serve the North Beyer Park Plan Area. A sewer lift station will be installed in order to obtain the depth required to accommodate the expected construction and build-out of the Plan Area. A "sub-trunk" sewer line has been extended from the pump station north up Coffee Road to the proposed Claratina Expressway, and then east down the Expressway to serve the North Beyer project and west to serve the Coffee/Claratina Area through the Specific Plan area as shown on Figure 6. The pump station and the eight-inch sewer line and twelve-inch "sub-trunk" sewer system in Grecian Avenue and Coffee Road have been sized to serve both the North Beyer Park Plan Area and the Coffee/Claratina Plan Area. The "sub-trunk" system and sewer lift station and force main shall be funded by the City with fees collected for that purpose.

A 10" sanitary sewer line exists in McHenry Avenue, terminating at Coralwood Avenue. However, this line does not have adequate capacity to serve the regional commercial area according to the 1995 Wastewater Master Plan. Sewer service to the Regional Commercial Area shall be provided with the extension of the line in Claratina Avenue which shall also be constructed to serve the balance of the Specific Plan Area. If capacity is available, sewer connection to this line in McHenry Avenue may be an alternative to connecting to the sewer line in Grecian Avenue to serve west portion of the Specific Plan area.

### 2. Storm Drainage (See Figures 8 and 8A)

A positive storm drainage system comprised of catch basins, pipelines and storm drain basins is proposed to serve this project (see Figure 8). The storm drain basins will be incrementally constructed as development occurs. The storm drain collection system and basins will be designed in accordance with the City of Modesto Standards and specifications. Exact locations may vary, depending on sub-area annexation to the City. The storm drain basin in the west half will serve the Regional Commercial, Residential and the Modesto Mobilehome Park (Sub-Areas A & B1), and be installed incrementally with the development of the Regional Commercial Area. In the east half the basin will be fully installed prior to any residential or Mixed Community Commercial development and serve Sub-Areas B2 and C.

### 3. Water (See Figure 7)

City water service will be provided to the entire plan area through connection and extensions of the existing water 12" main in Claratina Avenue, west of Coffee Road. The existing 12" water main and a 24" transmission water main which lie in Claratina



Avenue are part of a larger looped water system designed to serve the entire Plan Area. Water system should be looped to tie in with existing water lines in Dragoo Park Drive and Drakeshire Drive. All private wells located on any individual parcel slated for development shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Service Standards. In 2004, Public Works Department required a water capacity study to determine the best water source for undeveloped portions of the specific plan area. The water study may require that future development may be required to pay its fair share of any new water source.

**Page 3-10**

See attached new Figure 6.

**Page 3-11**

See attached new Figure 7.

**Page 3-12**

See attached new Figure 8.

**Pages 4-3 through 4-5**

3. Infrastructure to Serve Sub-area B<sub>1</sub>.

Sub-area B<sub>1</sub> is proposed to be developed as ~~28~~ 18 acres net of regional commercial and ~~30~~ 40 acres net of Residential.

- a. *Sewer service for Sub-area B<sub>1</sub> will be provided by the sewer line in ~~Claratina~~ Grecian Avenue extended from Coffee Road as shown in Figure 6.*
- b. *Water Service will be provided to Sub-area B<sub>1</sub> from water lines proposed in Claratina Avenue, Grecian Avenue, and/or existing McHenry Avenue. Prior to development of Sub-area B<sub>1</sub>, the City of Modesto Department of Public Works will determine the most appropriate method for provision of water service. In 2004, Public Works Department required a water capacity study to determine the best water source for undeveloped portions of the specific plan area. The water study may require that future development may be required to pay its fair share of any new water source.*
- c. *One storm drainage basin of approximately 10 to 11 acre feet of capacity will be installed in Sub-area B<sub>1</sub>, sized to provide storm drainage facilities for both Sub-area B<sub>1</sub> and Sub-area A. This basin will be constructed so that it can ultimately be connected to a regional basin via trunk lines in Claratina Avenue (see Figures 8*

~~and 8A), and reclaimed for development. The location of the storm drainage facility will be set with the first development proposal in Sub-area B<sub>1</sub> is on the north side of Grecian Avenue north of Family Lane. This basin shall be installed in its entirety with the first development in Sub-area B<sub>1</sub>. As of 2004, about half of the basin has been installed and the remaining half shall be installed with any additional development in Sub-area B<sub>1</sub>. The expanded basin will need further modifications to serve Sub-area A to meet current standards. Storm drainage facilities will be appropriately sized and ultimately constructed to the east/west collector roadway so that, at the appropriate time, connection to the facilities may be made by Sub-area A.~~

d. ~~With the additional development of Sub-area B<sub>1</sub>, signalization of the new project collector road Grecian Avenue/McHenry Avenue intersection will be required prior by the City Transportation Traffic Division in coordination with Caltrans to the time at which that intersection would degrade to less than a Level of Service D. The developer's options will be:~~

(1) to install the signal with the first phase of development if

signal warrants are met, or

(2) to satisfy the city traffic department, with appropriate traffic analysis, that the intersection will not degrade below level of Service D with the proposed development without the installation of the signal.

e. Prior to any new final entitlement approvals in Sub-area B<sub>1</sub>,

appropriate right-of-way shall be provided/dedicated at the intersection of McHenry Avenue and Claratina Avenue consistent with the plan line for an Urban Interchange.

Ultimate traffic signals shall be installed at the intersections of McHenry Avenue and Claratina Avenue as determined by the Urban Interchange design, and Claratina Avenue and Coffee Road, when the signals warrants are met, in consultation with the City of Modesto Transportation Traffic Division.

f. ~~Any development beyond 30 acres of the regional commercial area will require the project collector road to be completed for its entire length. As of 2004, Grecian Avenue, a collector road, extends from~~

~~McHenry Avenue to the easterly boundary of Sub-area B<sub>1</sub>, and then up Lifescape Drive extends north off Grecian Avenue to the right-in/right-out connection at Claratina Avenue. The geometries of the connection to Claratina Avenue will be established in consultation with the City of Modesto Transportation Division and will most likely be constructed as an interim improvement prior to full construction of Claratina Avenue.~~

~~g. At the time of development of Sub-area B<sub>1</sub>, additional rights-of-way for McHenry Avenue or Claratina Avenue, fronting the area proposed for development, will be dedicated consistent with City standards. Additional dedication may be required along McHenry Avenue to allow for the construction of dual left turn lanes.~~

~~H g. The intersection of the new east-west collector street Grecian Avenue with McHenry Avenue will include a minimum of two receiving lanes, two left turn lanes and one right turn lane is currently developed to allow only right turns in and out of Grecian Avenue. At the time of the review of any specific development request, the City of Modesto Transportation Division will evaluate whether another right turn lane is needed and Caltrans will determine if access on Grecian Avenue needs to be modified.~~

4. Infrastructure to serve Sub-area B<sub>2</sub>.

e. Prior to any new final entitlement approvals in Sub-area B<sub>1</sub>, appropriate right-of-way shall be provided/dedicated at the intersection of McHenry Avenue and Claratina Avenue consistent with the plan line for an Urban Interchange.  
Ultimate traffic signals shall be installed at the intersections of McHenry Avenue and Claratina Avenue as determined by the Urban Interchange design, and Claratina Avenue and Coffee Road, when the signals warrants are met, in consultation with the City of Modesto Transportation Traffic Division.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-070**

**A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN  
AREA GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION OF  
APPROXIMATELY TEN ACRES LOCATED EAST OF MCHENRY AVENUE AND  
SOUTH OF THE CLARATINA AVENUE FROM REGIONAL COMMERCIAL  
(RC) TO RESIDENTIAL (R). (RESOURCE DEVELOPMENT)**

WHEREAS, a General Plan for the City of Modesto entitled “City of Modesto Urban Area General Plan”, was adopted by the City Council by Resolution No. 95-409 on August 15, 1995, in accordance with Section 65300 of the Government Code, and

WHEREAS, on August 15, 1995, prior to the adoption of the City of Modesto Urban Area General Plan, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report (“MEIR”) for the Urban Area General Plan (SCH No. 92052017), and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body up to four times per year, and

WHEREAS, said General Plan has been amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, and 2003-122 copies of which are on file in the office of the City Clerk, and

WHEREAS, the General Plan has not been amended this year, and

WHEREAS, Resource Development has applied for an amendment to the Modesto Urban Area General Plan (File No. P-GPA-04-002) to redesignate approximately 10 located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), and

WHEREAS, the proposed project was referred to affected agencies in accordance to California Government Code Section 95352, and

WHEREAS, the Community and Economic Development Department has analyzed the proposed amendment and determined that said proposed amendment meets the Amendment Criteria set forth in Section II-C (4) of the General Plan and concluded that the site is in an appropriate location for single residential development in that commercial development has access limitations, it is compatible with nearby residential development, traffic circulation and air quality impacts will be reduced, it will not affect land designated as Open Space in the General Plan, and public services and facilities can be provided, and

WHEREAS, on December 20, 2004, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, relating to this proposed amendment to the Modesto Urban General Plan Land Use Diagram, and

WHEREAS, the Planning Commission agreed with the recommendation of the Community and Economic Development Department to change the land use designation, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2004-72, recommending to the City Council an amendment to the Modesto Urban General Plan Land Use Diagram and Community Development Policies Section, Exhibit III-3, Coffee/Claratina Comprehensive Planning District to re-designate approximately ten acres east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 25, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban General Plan Land Use Diagram, and

WHEREAS, concurrent with consideration of this proposed General Plan Amendment, the City Council received and considered an Initial Study (EA/C&ED No. 2004-70) and adopted Resolution No. 2005- xx finding that the proposed Amendment is within the scope of, and conforms to the City's Master Environmental Impact Report.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban General Plan Land Use Diagram to re-designate ten acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R) is in the public interest and is required for the public health, safety and welfare of the citizens of Modesto and said General Plan is hereby amended to read as shown on Exhibit "A" attached hereto 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 General Plan to the Board of Supervisors of the County of Stanislaus, within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and


all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this General Plan Amendment (File No. P-GPA-04-002). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**EXHIBIT "A"**

**MODESTO URBAN AREA GENERAL PLAN AMENDMENT  
GENERAL PLAN EXHIBIT III-3  
COFFEE/CLARATINA  
COMPREHENSIVE PLANNING DISTRICT AMENDMENTS**



**EXHIBIT A**  
**General Plan Exhibit III-3**  
**COFFEE/CLARATINA**  
**COMPREHENSIVE PLANNING DISTRICT AMENDMENTS**

1. Overview

This 170-acre Comprehensive Planning District is essentially an extension of the existing residential development pattern to the south.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- ~~130~~ 140 acres designated "Residential"
- ~~40~~ 30 acres designated "Regional Commercial"

b. Distribution of Land Uses Within the CPD:

The Regional Commercial should be located along McHenry Avenue to join the established commercial uses on McHenry Avenue.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))
- (2) "Neighborhood Plan Prototype" Policies (Section III-C(2))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of ~~1,000~~ 1,100 dwelling units.
- (2) Development in this Comprehensive Planning District should be considered an extension of the existing development immediately to the south.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system. The west portion of the specific plan area may have to connect to the existing sewer line on McHenry Avenue.

6. Mitigated Negative Declaration:

General Plan Policy III(D)(1)(g) specifically exempts the Coffee/Claratina Specific Plan from the requirement to prepare a Focused EIR. CEQA review for this Comprehensive Planning District shall be satisfied by a Mitigated Negative Declaration prepared pursuant to Section 2115.71 of CEQA.

The Mitigated Negative Declaration for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~1,000~~ 1,100 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~1340~~ 1,005 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-071**

**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): AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN AND THE COFFEE/CLARATINA SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION OF APPROXIMATELY TEN ACRES LOCATED EAST OF MCHENRY AVENUE AND SOUTH OF THE CLARATINA EXPRESSWAY FROM REGIONAL COMMERCIAL (RC) TO RESIDENTIAL (R). (RESOURCE DEVELOPMENT)**

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, Resource Development has filed an application to amend the Modesto Urban Area General Plan (File No. P-GPA-04-002) and Coffee/Claratina Specific Plan (File No. P-SPA-04-003) to redesignate approximately 10 acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to review of 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 No. 2004-70 reviewed the proposed

amendment to the Modesto Urban Area General Plan and Coffee/Claratina Specific Plan to redesignate approximately ten acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R) (collectively “Projects”) to determine whether the Projects are 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 Projects 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 Projects are within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 1, 2005, the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed Projects conform with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 25, 2005, 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 (EA/C&ED No. 2004-70) prepared for the proposed amendments to the Modesto Urban Area General Plan and Coffee/Claratina Specific Plan to redesignate approximately 10 acres located east of McHenry Avenue and south of Claratina Avenue from Regional Commercial (RC) to Residential (R), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference. Based on the substantial evidence included in said Initial Study the City Council hereby 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 (EA/C&ED No. 2004-70) 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 (EA/C&ED No. 2004-70), 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 25th day of January, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Bartholomeu  
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2004-70**

**City of Modesto**

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

**Initial Study C&ED No. (2004-70)**

**For the proposed:**

**P-GPA-04-002, P-SPA-04-003, and P-TSM-04-012 Proposed General Plan Amendment and  
Specific Plan Amendment for the Coffee/Claratina Specific Plan and Vesting Tentative  
Subdivision Map**

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

**December 9, 2004**



**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 Planned Development for new single family homes 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 by 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: General Plan Amendment, Specific Plan Amendment, and Vesting Tentative Subdivision Map to develop single family homes
- B. Address or Location: Southeast corner of McHenry Avenue and Claratina Avenue
- C. Applicant: Resource Development, 2020 Standiford Avenue, Bldg D-5, Modesto, Ca. 95355
- D. City Contact Person: Paul Liu

Project Manager: Paul Liu  
Department: Community and Economic Development Department  
Phone Number: (209) 571-5540  
E-mail address: pliu@modestogov.com

- E. Current General Plan Designation(s): (RC) Regional Commercial and (R) Residential
- F. Current Zoning Classification(s): Specific Plan-Overly (SP-O) Zone, with underlying zoning of (C-3) Highway Commercial and (R-1) Low Density Residential

G. Surrounding Land Uses: North: Commercial, Vacant, Churches, and Residential  
South: Single Family Residential  
East: Single Family Residential  
West: Vacant

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 site is about 20.6 acres located on the southeast corner of McHenry Avenue and Claratina Avenue. This is an application for a General Plan Amendment and a Specific Plan Amendment to redesignate the center 10 acres from Regional Commercial to Residential. A tentative subdivision map would follow to create new single family lots. The tentative map would be covered by this environmental document if it is consistent with the amended Specific Plan. The west 9.2 acres and the east 1.4 acres will remain the unchanged.

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.
  - c) The project is within the scope of the MEIR
- 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.

Paul Lin  
Project Manager

Associate Planner 12/10/04  
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 outside of the scope of the information identified in the Master EIR. | 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 IV, Mitigation Measures Applied to Project.

Discussion: No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

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

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

	YES	NO
(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.		X

Where 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 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:

- (1) The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. The daily and peak hour trips will be less with the change of 10 acres from commercial to residential. The entire 20.6 acre project site is currently designated for Highway Commercial (C-3) development. The site could be developed with an estimated 207,000 square feet of commercial uses and generate about 7,629 new daily trips.

The proposal to change 10 acres to R-1, Low Density Residential could provide for approximately 61 single-family and the remaining commercial site could develop with up to 92,000 square feet of commercial uses and generate combined total of 5,071 daily trips. The estimated total daily trips would be fewer daily trips than is current designation.

No traffic study is required. The applicant is working with Caltrans to review the traffic implications on McHenry Avenue, State Road 108, due to the land use change. Caltrans concurred for the traffic review to be completed prior to approval of the tentative subdivision map where any needed condition would be appropriately required.

- (2) The project does not substantially increase hazards due to a design feature.
- (3) The City's Standards for emergency access will be accommodated by this project.
- (4) The project meets City Standards with regard to parking.

## 2. AIR QUALITY

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and 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: Mitigation Measures appropriate to this project include: AQ-17, Reduce Construction Impacts.

**c. Project-Specific Effects**

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

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

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.		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 for up to 61 single-family dwellings will not exceed the emissions thresholds. Emissions will be less compared to the alternative of 10 acres of commercial development.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measure above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measure above).
- (4) The project is not a significant contributor to pollution levels in that it is a subdivision for residential development. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.
- (5) The residential subdivision should not produce objectionable odors.



### 3. NOISE

#### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 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 project site is located within the Ldn 65 contour from Claratina Avenue and the developer will have to demonstrate that the proposed development will incorporate measures to reduce noise impacts to less-than-significant level. The Coffee/Claratina Specific Plan includes a requirement of an eight-foot high masonry wall along Claratina Avenue and to reduce second story noise levels to less than 45 CNEL, noise mitigating window assemblies shall be required for windows facing Claratina.

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. The adopted Specific Plan includes some conditions to address the interior noise level.
- (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 and required by the Coffee/Claratina Specific Plan, are incorporated into the conditions of approval for the project.
- (3) The only permanent noise levels produced by the project would be associated with 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. The noise mitigation measures called for by the General Plan are incorporated into the conditions of approval for the project.

**4. AGRICULTURAL LANDS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 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"/> | <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) Chapter IV Environmental Analysis, Section 4 Loss of Agricultural Land discusses the expected impacts due to the loss of agricultural land from the development of the General Plan. The project site is designated as prime agricultural land. On Page IV-4-13, the General Plan MEIR recognizes that loss of agricultural land is a significant and unavoidable impact under CEQA, even with the adoption of all feasible mitigation measures. Overriding consideration findings have been adopted for the General Plan.
- (2) The March 2003 planning area includes the subject property within its 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.

**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.   |                          | 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) Sufficient water supplies are available to serve the proposed development. Public Works Department is requiring the developer to provide water capacity study to determine the best water source for this project. The water study must be completed prior to consideration of the subdivision map. The applicant has agreed to the findings of the water study that may include a requirement that the project pays its fair share of any new water source.

## 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.   |                          | 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) Public Works Department has determined that sewer service can be provided by connecting to the existing sewer line in Grecian Avenue that travels east to Coffee Road and a lift station. An alternative connection would be to the existing line in McHenry Avenue at Corralwood Road.

**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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

Section V-7.B of the MEIR and 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 as supplemented by the FEIR.

Determination of project effects will be based on the following thresholds. 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) Chapter IV Environmental Analysis, Section 7 Loss of Sensitive Wildlife and Plan Habitat discusses the expected impacts due to the loss of sensitive wildlife and plan habitat related to the development of the General Plan. Figure 7-1 contains potential biological resource study areas within the General Plan. This project does not fall within one of these areas. Further, the General Plan states that all impacts to sensitive wildlife and plan habitat can be mitigated. This project is a subsequent project under the General Plan and is not within a significant biological resource area.
- (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. 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:

Mitigation Measures applicable to this project include: AH-8 and 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 as supplemented by the FEIR.

Determination of project effects will be based on the following thresholds. 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 IV, 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. The project will expand the existing storm drainage basin at the east end of the project site consistent with city requirements. The entire 20.6 acre project site will be adequately served by this expansion.
- (3) The project will contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval of 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 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 site is not located within the 100-year flood zone. 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 as supplemented by the FEIR.

Determination of project effects will be based on the following thresholds. 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 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.

### 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 as supplemented by the FEIR

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

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  X

Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity. The eight-acre Coffee/Claratina Park is developed within the specific plan area with a dual use as a storm basin site.

**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:

The project will be made to comply with SB 50 as required by the MEIR.

### 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 addresses compliance with SB 50/Proposition 1A funding provisions as required by the MEIR.

### 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 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 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 will be 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 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 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 as supplemented by the FEIR.

Determination of project effects will be based on the following thresholds. 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 a residential subdivision.
- (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. There are no areas identified in the MEIR that are considered unstable or have the potential to become unstable and result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

## 18. ENERGY

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures 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 proposes a General Plan amendment of 10 acres to be changed from Regional Commercial to Residential. The 20-acre project site has access difficulties for regional commercial development due to Claratina Avenue, an expressway, to the north and McHenry Avenue, a State road, to the west. This intersection is designated as an urban interchange with a considered design having Claratina Avenue with a grade separated overpass across McHenry Avenue. The City of Modesto has hired a consultant to design the interchange and the design should be completed before the map the considered. The standards discourage access on Claratina although there have been discussion right in and out possibilities. Access to McHenry may also be limited to right in and out only. As a result, the proposed residential use is a better suited use due to the limited access.

- (2) The proposed General Plan amendment involves 10 acres to be changed from Regional Commercial to Residential. This is not a significant amendment to the Modesto Urban Area General Plan.
- (3) The project will essentially be an infill project next to an existing residential area of the urbanized City. 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 site is not located within a designated scenic vista. Therefore, this project will not have a substantial adverse affect on scenic vistas.
- (3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings, because it is a low density single family subdivision consistent with the surrounding residential areas.
- (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") 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, trackout 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.



2. The City of Modesto shall require noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g. where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following:
  - A. 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.
  - B. Other proposed uses: the noise/land use compatibility guidelines (i.e., those noise levels which are "conditionally acceptable," "normally Unacceptable," or "clearly unacceptable,") shown in Table 1 and the most recent noise contours for the City shown in Figure VII-1 [of the City's Urban Area General Plan].

**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. For proposed development outside an identified archaeological resource study area (as depicted on Figure 8-1 in the 1995 Master EIR), no further research for prehistoric deposits is warranted unless specific information concerning the known or potential presence of significant cultural resources is identified in future updates at the applicable cultural resource information repository or through formal or informal input received from a qualified source. If previously unknown subsurface cultural resources are discovered during excavation activities, excavation would be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important, the project sponsor would follow the procedure described in Policy 2(a), above.

2. 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 State Water Control Board and City of Modesto require a Storm Water Pollution Prevention Plan (SWPPP) to be developed prior to construction activity. A copy of the notice of intent (NOI) and SWPPP shall be required to obtain a grading permit if required by the Engineering and Transportation Director.
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. The State Water Control Board and City of Modesto require a Storm Water Pollution Prevention Plan (SWPPP) to be developed prior to construction activity. A copy of the notice of intent (NOI) and SWPPP shall be required to obtain a grading permit if required by the Engineering and Transportation Director.
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:**

1. To the extent allowed by state law, annexation to the appropriate schools community facilities district will be required as a condition of final map approval. If this requirement cannot be enforced due to the status of state law, then prior to issuance of the first building permit or final map approval, whichever is earlier, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

**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. 2005-072**

**A RESOLUTION DESIGNATING THE NAMING OF THE  
TERRACE LEVEL AT THE MODESTO CENTRE PLAZA IN  
HONOR OF FORMER MAYOR DICK LANG; ANNOUNCING A  
CAPITAL CAMPAIGN TO ACCOMPLISH THE EXPANSION OF  
THE TERRACE AND AUTHORIZING STAFF TO SEEK  
PROPOSALS FOR ARCHITECTS/DESIGNERS TO DO  
DEVELOPMENT WORK**

WHEREAS, the City of Modesto owns the property known as the Modesto Centre Plaza, and

WHEREAS, the City has recently added elevator service to the terrace level of the Centre Plaza and wishes to expand the Plaza Terrace to extend the second tier to accommodate future rental opportunities, and

WHEREAS, with the recent death of former Mayor Dick Lang there has been interest expressed by the community to name a City facility in his honor, and

WHEREAS, the naming of the Plaza Terrace of the Modesto Centre Plaza in honor of Dick Lang would be an appropriate recognition due to his dedication to the downtown development, and

WHEREAS, a Capital Campaign will be conducted to collect the funds needed for the project, and

WHEREAS, the City of Modesto will seek proposals for architects/designers to do development work, and

WHEREAS, at its January 10, 2005, meeting, the Economic Development Committee supported the recommendations to designate the naming of the Terrace level at the Modesto Centre Plaza in honor of former Mayor Dick Lang, to announce a Capital

Campaign to accomplish the expansion of the terrace and to authorize staff to seek proposals for architects/designers to do development work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby designates the naming of the Terrace Level at the Modesto Centre Plaza in honor of former mayor Dick Lang.

BE IT FURTHER RESOLVED by the Council that it hereby announces a Capital Campaign to accomplish the expansion of the terrace.



BE IT FURTHER RESOLVED by the Council that it hereby authorizes staff to seek proposals for architects/designers to do development work.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

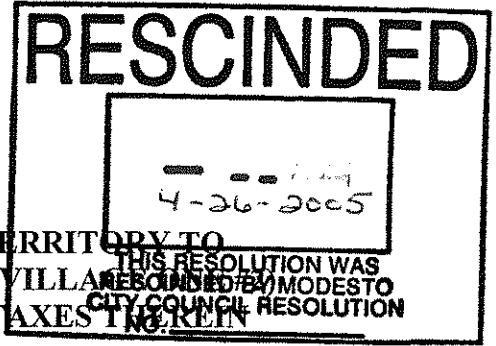
ABSENT: Councilmembers: None

Attest:   
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-073**



**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. 7)**

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 is higher in Tax Zone #2, 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, the territory to be annexed will be subject to the tax rates in 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 "Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California" on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled "Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2)," on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled "Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2)," on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled "Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2)," on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled "Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2)," on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled "Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village One #2)," on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; the map entitled "Annexation Map No. 5 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 2; and the map entitled "Annexation Map No. 6 to

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 7.

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. 7 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California," on file in the office of the City Clerk, hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are set forth in the Resolution of Creation of Tax Zone #2. . It is intended that the special taxes set forth in Tax Zone #2 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 8, 2005, 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 1<sup>st</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

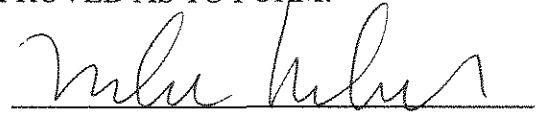
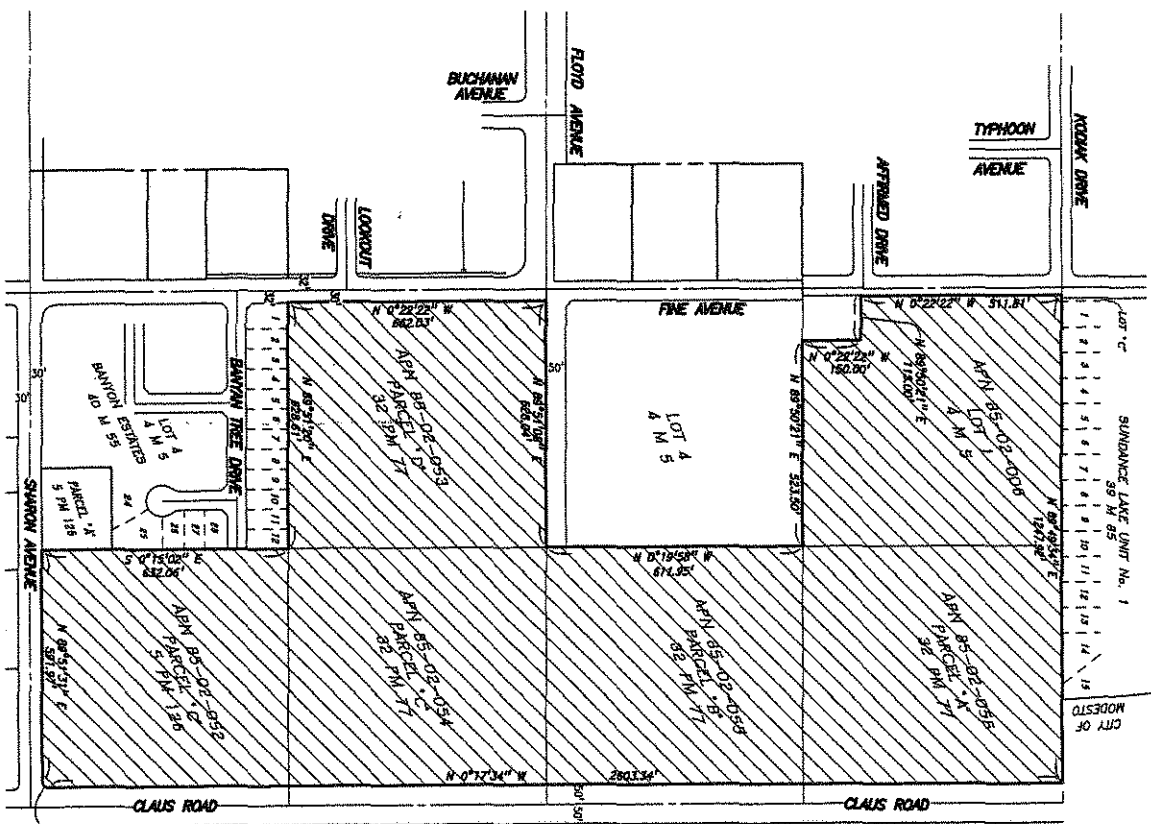
By:   
MICHAEL D. MILICH, City Attorney

EXHIBIT A

ANNEXATION NO. 7 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)



1:100000000  
20040101  
001-001-01-01-01

PROPERTY TO BE ANNEXED

**BASIS OF BEARING**

A BEARING OF NORTH 0°14'50" EAST FOR THE LINE THAT LIES BETWEEN LOT 4 AND LOT 5 OF PARCELS 18, 20, 22 AND 24 OF SWANSON AVENUE AND THE CENTER LINE OF SWANSON AVENUE IS SHOWN ON STANISLAUS COUNTY RECORDS AT PAGE 51.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004.

JENN ZHANG, CITY CLERK

FRONT TITLE \_\_\_\_\_

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 7 TO THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) OF THE CITY OF MODESTO, CALIFORNIA, WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA. I AM NOT PROVIDING THIS SERVICE AS AN EMPLOYEE OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF. FILED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004, BY JENN ZHANG, CITY CLERK.

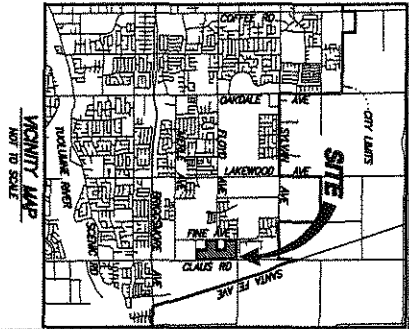
FRONT TITLE \_\_\_\_\_

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 EXISTING MAP FOR WHICH THIS MAP IS BEING PREPARED IS THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) CITY OF MODESTO COUNTY OF STANISLAUS, STATE OF CALIFORNIA. A MAP RELATED TO ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 2 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 3 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 4 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 5 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 6 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE. A LAW RELATED TO ANNEXATION NO. 7 TO THE DISTRICT WAS RECORDED ON JANUARY 26, 2004, IN BOOK 1 OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE 51 IN THAT OFFICE.

FRONT TITLE \_\_\_\_\_

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF MAPS OF ANNEXATION AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA. LEE LINNORAH, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

FRONT TITLE \_\_\_\_\_



**ANNEXATION MAP NO. 7  
OF COMMUNITY FACILITIES DISTRICT  
NO. 2004-1 (VILLAGE ONE #2)  
CITY OF MODESTO, COUNTY OF STANISLAUS,  
STATE OF CALIFORNIA**

REVISIONS	
NO.	DESCRIPTION

**THOMPSON-HYSELL ENGINEERS**  
A DIVISION OF THE KEITH COSPARKER, INC.  
1016 12TH STREET, MODESTO, CA 95305  
(209) 521-6966 FAX (209) 521-6046

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-074**

**A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN  
PARTICIPATION CALENDAR OF EVENTS FOR 2005-2006 HUD  
ANNUAL ACTION PLAN AND PUBLIC SERVICE GRANTS, AND  
ESTIMATED AMOUNTS FOR THE PUBLIC SERVICE GRANTS**

WHEREAS, Federal Housing and Urban Development (HUD) regulations require the City of Modesto to have a Citizens' Participation Plan which contains the City's procedures for community participation in the development of the Annual Action Plan and the use of Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the City adopted and last amended its Citizen Participation Plan in October 1998, a copy of which is available for review at the Recreation and Neighborhood Services Division office at Tenth Street Place, and

WHEREAS, the proposed calendar for citizen participation includes Public Service grant applications for CDBG as well as ESG proposals, and

WHEREAS, staff anticipates the proposed allocation of \$150,000 of Public Service grants will be designated for the operation of allowable City programs, such as the Crime Free Multi Housing Project and recreation programs, and

WHEREAS, staff anticipates the proposed estimated RFP amounts for Public Service grants will be a total of \$360,953 in CDBG funds and \$104,391 in ESG funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the timeline for the Citizen Participation Calendar of Events for Fiscal Year 2005-2006 HUD Annual Action Plan and Public Service Grants, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Council hereby approves the estimated RFP amounts for Public Service Grants of \$465,344.

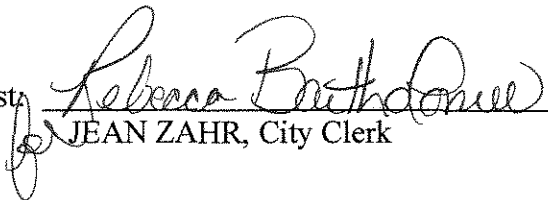
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**City of Modesto**  
**HUD Programs - Fiscal Year 2005-2006**  
**Citizen Participation Calendar of Events**

	<b>Date</b>	<b>Time</b>
City Council Meeting to approve the draft timeline for Public Service Grants, Consolidated Plan, Annual Action Plan for 2005-2006 & Citizen Participation Calendar of Events Council Chambers, Tenth Street Place	01 Feb 05 (Tuesday)	5:30 pm
Application Period for Public Service Grants opens (02 Feb to 25 Feb)	02 Feb 05	
Staff Technical Assistance Workshop for CDBG Public Service Grants Room 3001, Tenth Street Place	10 Feb 05 (Thursday)	10:00 am
Staff Technical Assistance Workshop for ESG Public Service Grants Room 3001, Tenth Street Place	11 Feb 05 (Friday)	10:00 am
Community meetings to obtain input on Consolidated Plan & Annual Action Plan:		
▪ King Kennedy Memorial Center	16 Feb 05	7:00 pm
▪ American Legion Hall	17 Feb 05	3:00 pm
▪ Modesto Senior Center	17 Feb 05	7:00 pm
Application due for funding requests for Public Service Grants	25 Feb 05 (Friday)	5:00 pm
Analysis of Public Service funding requests by staff and Review Committee	28 Feb to 11 Mar 05	
CH&CDC Meeting and public hearing to consider funding requests for Public Service Applications, Council Chambers, Tenth Street Place	25 Mar 05 (Friday)	12:00 noon
City Council Study Session, City Council Chambers	05 Apr 05 (Tuesday)	5:30 pm
30-day Public notice announcing availability of final draft of Consolidated Plan & 2005-2006 Annual Action Plan for review and comments (06 Apr to 06 May)	06 Apr 05 (Wednesday)	
City Council Meeting to consider and approve funding recommendations for Public Service Grants, Council Chambers, Tenth Street Place	12 Apr 05 (Tuesday)	5:30 pm
CH&CDC Meeting to consider final draft of Consolidated Plan & 2005-2006 Annual Action Plan Room 3001, Tenth Street Place	22 Apr 05 (Friday)	12:00 noon
City Council Meeting and public hearing to consider and approve recommendations for the Consolidated Plan & 2005-2006 Annual Action Plan Council Chambers, Tenth Street Place	10 May 05 (Tuesday)	5:30 pm
Consolidated Plan due to HUD	16 May 05 (Monday)	
2005-2006 Annual Action Plan due to HUD	31 May 05 (Tuesday)	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-075**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS ON THE "CENTRE PLAZA  
ELEVATOR EXTENSION" PROJECT FROM \$45,000 TO \$50,600**

WHEREAS, on February 24, 2004, the City Council awarded a \$232,900 contract to TCB Industrial, Inc., to construct the "Centre Plaza Elevator Extension" project, and

WHEREAS, the contractor started work on March 29, 2004, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of a useable elevator that conforms to code requirements, and

WHEREAS, the cost of the extra work was estimated to be as high as \$41,000, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Council by Resolution No. 2004-445 increased the Public Works Director's authority to approve change orders up to a cumulative amount of \$41,000, and

WHEREAS, additional work needed to be performed that was not included in the previous estimate for the project, and

WHEREAS, the total cost of the extra work was estimated to be as high as \$45,000, which exceeded the previously approved Director's Authority increase to \$41,000, and

WHEREAS, the Council by Resolution No. 2004-603 increased the Public Works Director's authority to approve change orders up to a cumulative amount of \$45,000, and



WHEREAS, the TCB Industrial, Inc., requested payment of an additional \$14,922.13 for added costs incurred by them as a result of the Federal and State requirements that were not included in the original contract, and

WHEREAS, these costs were not included in the various change orders executed for the project, and

WHEREAS, City staff negotiated these costs to an acceptable and justifiable amount of \$7,461.06, and

WHEREAS, the added unanticipated cost increased the total change order cost for the project to \$50,567.57, which exceeded the previously approved Director's Authority increase to \$45,000, and an increase in the Director's authority to issue change orders in the amount of \$50,600.00 is 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 \$45,000 to \$50,600, for the project entitled "Centre Plaza Elevator Extension."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-076

RESOLUTION ACCEPTING THE WORK BY TCB INDUSTRIAL, INC., FOR THE "CENTRE PLAZA ELEVATOR EXTENSION" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$283,467.57 PER THE CONTRACT. TOTAL PROJECT COST IS \$356,287.68

WHEREAS, a report has been filed by the Public Works Director that the project titled "Centre Plaza Elevator Extension" has been completed by TCB Industrial, Inc., in accordance with the contract agreement dated February 24, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Centre Plaza Elevator Extension" project be accepted from said contractor, TCB Industrial, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$283,467.57 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 1st day of February, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-077**

**A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP  
OF "EARTHDAY IN THE PARK FESTIVAL, 2005" AT GRACEADA  
PARK AND ALLOWING THE SALE OF MERCHANDISE IN THE  
PARK DURING THE EVENT**

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, by Resolution No. 92-129, adopted March 24, 1992, the City Council acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizen's Advisory Committee on Recycling (CACOR) sponsors the event, and the 16<sup>th</sup> Annual "Earth Day in the Park" will be held on Saturday, April 23, 2005, at Graceada Park, and

WHEREAS, "Earth Day in the Park Festival, 2004" drew approximately 90 vendors, and

WHEREAS, because the CACOR is an advisory committee to the City Council, the group's ability to obtain event liability coverage is restricted, and City co-sponsorship of the event will allow provision of automatic coverage under the umbrella of the City's existing insurance policy, and

WHEREAS, the City's Risk Manager has assessed the scope of the event and determined it to be of minimal exposure to the City, and

WHEREAS, as in prior years' events, the Committee seeks Council approval for the sale of merchandise in the Park during the event, and

WHEREAS, this event provides a forum for merchants to display and sell their “environmentally friendly” merchandise, and for the creation of a “festival atmosphere”, while giving the public an opportunity to make purchases of positive benefit to the environment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City hereby affirms its co-sponsorship of “Earth Day in the Park Festival, 2005”, at Graceada Park.

BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the “Earth Day in the Park Festival, 2005” event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of February, 2005, by Councilmember Jackman, who moved its 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: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-078**

**A RESOLUTION APPROPRIATING \$90,000 FROM GENERAL FUND  
RESERVE TO GRAFFITI ABATEMENT (ORGANIZATION 4722) TO FULLY  
FUND ABATEMENT ACTIVITIES FOR THE REMAINDER OF FISCAL YEAR  
2004-2005**

WHEREAS, Graffiti activity within the City of Modesto has substantially increased over the course of the past two calendar years, and

WHEREAS, in 2002, crews removed 189,991 square feet of graffiti, and

WHEREAS, in 2003, crews removed 467,449 square feet of graffiti, or 2.5 times the 2002 level, and

WHEREAS, record graffiti levels were reached in calendar year 2004, with 905,366 square feet of graffiti removed as of December 7, 2004, and

WHEREAS, 2004 graffiti levels are almost double those of 2003 and 4.8 times the amount of 2002, and

WHEREAS, in Fiscal Year 2003-2004, Council funded increased needs for graffiti removal through a Budget Adjustment in the amount of \$80,000 from General Fund Reserve, and

WHEREAS, due to budgetary constraints, Graffiti Abatement was funded at the pre-amended level for Fiscal Year 2004-2005 with the expectation that staff would return to Council at mid-year with updated activity levels and an adjustment request, and

WHEREAS, Graffiti Abatement further experienced a budget reduction in the amount of \$20,000 allocated for part-time labor for 2004-2005, and

WHEREAS, the current budget is insufficient to continue Graffiti Abatement activities even at the 2003-2004 levels, and

WHEREAS, swift removal of Graffiti is necessary in order to prevent increases in related criminal activity, and

WHEREAS, staff proposes allocating the reserve funds as identified below:

0100-480-4722-0130	\$25,000	Overtime Labor
0100-480-4722-0235	\$25,000	Professional Services & Other
0100-480-4722-0360	<u>\$40,000</u>	Maintenance & Repair Supplies
Total	\$90,000	

, and

WHEREAS, at its meeting of January 18, 2005, the Finance Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes appropriating \$90,000 from General Fund Reserve (0100-800-8000-8003) to Graffiti Abatement, Organization 4722.

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 1st day of February, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-079**

**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 Acting 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 CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classifications:

1. Deputy Director of Public Works-Operations
2. Deputy Director of Public Works-Engineering

Each classification is being created to reflect the recent reorganization of the former Operations and Maintenance Department and former Engineering and Transportation Department into the Public Works Department. The job specifications for the classifications of Deputy Director of Public Works-Operations and Deputy Director of Public Works-Engineering is 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 job specifications for Paralegal. Said classification is being amended to update the essential functions to more accurately reflect the essential functions of the classification.

SECTION 3. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classifications:

1. Deputy Director of Operations and Maintenance
2. Deputy Director of Engineering and Transportation

Said classifications are no longer being used.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after February 8, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## DEPUTY DIRECTOR OF PUBLIC WORKS-OPERATIONS

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

### DEFINITION

To assist the Director of Public Works in the planning, directing, supervising, and coordinating of departmental functions and operational activities; to assist in the monitoring and preparation of operating and capital improvement budgets and management of personnel assigned to the department; and to provide highly complex staff assistance to the director.

### SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Public Works Director.

Exercises direct supervision over professional, technical and clerical staff.

Exercises management of assigned operations and maintenance functions.

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

#### Essential Functions:

Assist in planning, directing, supervising, and coordinating departmental operations; oversee and participate in the development of departmental strategic planning; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Appear before the City Council, Council Committees, boards, commissions and numerous civic organizations representing the Department.

Assist with the preparation of operating and capital improvement budgets and control of expenditures, including the preparation of long-term maintenance management models.

Supervise and assist subordinate supervisors in the operations and maintenance of City infrastructure, particularly water, wastewater and storm drainage systems; establish long-range plans and goals, including strategic planning for the utility enterprise funds and issues dealing with environmental regulations.

Essential Functions: (Continued)

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Coordinate Department activities with those of other departments and outside agencies and organizations; provide staff assistance to the Public Works Director; prepare and present staff reports and other necessary correspondence.

Oversee storm water and wastewater NPDES permitting processes; maintain positive relationships with outside regulatory authorities, where assigned.

Work across departmental lines to insure long-term infrastructure needs of the city are met.

Establish performance expectations and evaluate performance of subordinate personnel.

Prepare a variety of correspondence including general and special reports.

May serve as the Public Works Director, as required.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles of supervision, training, management and public works administration.

Principles of budget preparation and expenditure control.

Principles and practices of public administration labor relations and public personnel management.

Principles and practices as applied to the field of operating and maintaining the city infrastructure.

Technical, legal, and financial issues related to the conduct of municipal public works program.

Knowledge of: (Continued)

Strategic planning and environmental regulations for municipal utilities.

National Pollution Discharge Elimination Systems (NPDES) permitting and compliance.

Methods of preparing designs, plans, specifications, estimates, reports and recommendations relating to proposed public works projects.

Procedures, materials, equipment and methods used in all areas of public works activities.

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

Ability to:

Oversee and coordinate the activities of a number of sections within the Department.

Assist with the preparation of departmental operating and capital improvement budgets and control budget expenditures.

Review and interpret cost estimates.

Effectively represent the Department before the Council, Council Committees, boards, commissions, public agencies and private groups.

Prepare clear and concise written reports and develop appropriate recommendations.

Effectively manage assigned areas of the departmental program.

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

Perform a variety of technical research and prepare reports of findings.

Manage a large staff of field, office, professional and technical staff.

Experience and Training Guidelines:

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

Experience:

Seven years of increasingly responsible professional management experience in a public works environment, including at least five years in a supervisory or administrative capacity.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in public administration, civil engineering, business administration or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of certification in water distribution or wastewater treatment, dependent area of assignment.

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.

## DEPUTY DIRECTOR OF PUBLIC WORKS-ENGINEERING

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

### DEFINITION

To assist the Public Works Director in the planning, directing, supervising, and coordinating of departmental functions and engineering activities; to assist in the preparation of operating and capital improvement budgets; and to provide highly complex staff assistance to the director.

### SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Public Works Director.

Exercises direct supervision over professional, technical and clerical staff.

Exercises responsible charge of assigned engineering, development services, transportation and utility planning functions.

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

#### Essential Functions:

Assist in planning, directing, supervising, and coordinating departmental operations; oversee and participate in the development of departmental strategic plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Appear before the City Council, Council Committees, boards, commissions and numerous civic organizations representing the Department.

Assist with the preparation of operating and capital improvement budgets and control of expenditures.

Supervise and assist subordinate supervisors in the planning, design, and construction management of City buildings, equipment, and City street, transportation, traffic, electrical, water, waste water and drainage systems; establish long-range plans and goals, including strategic planning for the utility enterprise funds, rate setting, and issues dealing with environmental regulations.



Essential Functions: (Continued)

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Coordinate Department activities with those of other departments and outside agencies and organizations; provide staff assistance to the Public Works Director; prepare and present staff reports and other necessary correspondence.

Monitor franchises and service agreements related to solid waste, telecommunications or other utilities.

Establish performance expectations and evaluate performance of subordinate personnel.

Prepare a variety of correspondence including general and special reports.

May be assigned special projects requiring engineering design calculations and using the judgment of a registered professional engineer.

May serve as Public Works Director, as required.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles of supervision, training, management and public works administration.

Principles of budget preparation and expenditure control.

Principles and practices as applied to the field of municipal public works, including planning, development, design, and construction.

Technical, legal, and financial issues related to the conduct of municipal public works program.

Strategic planning, rate setting and environmental regulations for municipal utilities.

Methods of preparing designs, plans, specifications, estimates, reports and recommendations relating to proposed public works projects.

Knowledge of: (Continued)

Procedures, materials, equipment and methods used in all areas of public works activities.

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

Ability to:

Oversee and coordinate the activities of a number of sections within the Department.

Assist with the preparation of departmental operating and capital improvement budgets and control budget expenditures.

Review and interpret cost estimates.

Effectively represent the Department before the Council, Council Committees, boards, commissions, public agencies and private groups.

Prepare clear and concise written reports and develop appropriate recommendations.

Effectively manage assigned areas of the departmental program.

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

Perform a variety of technical and engineering research and prepare reports of findings.

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 professional civil engineering experience, including at least two years in a supervisory or administrative capacity.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Certificate of Registration as a Civil Engineer or Traffic Engineer issued by the California State Board of Registration for Professional Engineers. If licensed in another state, candidates will have six (6) months to obtain California Registration.

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.

## PARALEGAL

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

### DEFINITION

Under general supervision, a paralegal performs a variety of paraprofessional legal duties in support of the City Attorney's Office, prepares legal documents, interviews clients, and performs legal research and writing and provides general litigation support.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision 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:

Draft legal documents, including discovery, administrative, pre-trial/trial documents, pleadings, motions, correspondence and memoranda.

Gather, organize, summarize and analyze materials obtained through the pre-trial process.

Maintain a master calendar of critical dates, including court appearances, court filings, pre-trial dates, and discovery response dates.

Gather and organize documents for administrative proceedings; may attend and take notes at hearings.

Participate in investigations, and facilitate the resolution of discrimination and harassment complaints and assist in developing procedures, which create a non-discriminatory work environment.

Act as a liaison between attorneys and client/witnesses.

Provide logistical support, including filing legal documents or collect legal documents at a variety of venues.

Essential Functions: (Continued)

Research specific questions of law for precedence, related case law, and/or citations and summarize the results in memoranda or reports.

Prepare witnesses to give testimony and depositions; review and summarize witness statements.

Analyze or distinguish cases that may have relevance, and present conclusions to attorney.

Respond to inquiries from the public

Monitor the progress of cases/projects as appropriate.

Prepare correspondence and reports.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Methods and techniques used in conducting legal research and available legal resource material, discovery, and fact investigation.

Applicable California Code of Civil Procedure; related municipal, state and federal laws, codes, and procedures.

Use and application of general legal principles and processes.

Principles of legal writing; basic communication skills.

Ethics of law practices.

General familiarity with State and Federal Trial Court practices.

Personal computers and related software.

Ability to:

Provide paralegal support during administrative hearings, in court and while performing related duties.

Make independent judgments within established guidelines.

Ability to: (Continued)

Prepare legal documents, including pleadings, motions, and discovery documents.

Organize work, set priorities, meet critical deadlines and follow-up on assignments with a minimum of directions.

Research and summarize case law and other legal documents.

Monitor progress of cases and projects as appropriate.

Follow verbal and written instructions.

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

Use a computer and related office equipment.

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 progressively responsible experience as a Paralegal working under the supervision of an attorney, **AND must possess at least one of the following:**

Training:

a) A certificate of completion of a paralegal program approved by the American Bar Association; b) A certificate of completion of a paralegal program or a degree from a post-secondary institution that requires the successful completion of a minimum of 24 semester units in law-related courses and that has been accredited by a national or regional accrediting organization or approved by the Bureau of Private Post-secondary and vocational education; c) a baccalaureate degree in any subject and a minimum of one year of law-related experience or a high school diploma or general equivalency diploma and a minimum of three years of law-related experience. The law-related experience must have been under the supervision of an attorney, who has been an active member of the State Bar of California or who has practiced in the federal courts of this state, for at least the preceding three years, and who must provide a written declaration stating the incumbent is qualified to perform paralegal tasks.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

See "training" section above for specific details.

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.

Note: The experience and training guidelines described above are based on AB 1761, Codified as Section 6450 Business and Professions Code.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time, bending and stooping to retrieve files and using a personal computer and other office equipment.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-081**

**A RESOLUTION APPROVING CAPITAL IMPROVEMENT PROGRAM POLICIES  
AND PROCEDURES AND IMPLEMENTATION OF A CALENDAR FOR  
FISCAL YEAR 05-06 BUDGET ADOPTION**

WHEREAS, staff has been requested to conduct a comprehensive review of the City's capital improvement program and its future capital needs, and

WHEREAS, Phase II of this project requires the establishment of policies and procedures for the Capital Improvement Program budget, and

WHEREAS, there is a need to have an interim budget calendar to adopt the Capital Improvement Program for Fiscal Year 05-06,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Improvement Program Policies and Procedures and the budget adoption calendar as shown in Attachment A is approved.

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 8th day of February 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MIKE MILICH, City Attorney

## Capital Improvement Program Policies

### Definition of a Capital Project

- Cost should be \$100,000 or more for the life of the project
- Most will take more than a single year to complete
- Project revenues and expenditures should be clearly identified and balanced (e.g., revenue should equal project expenditures)
- Projects should have an identifiable schedule that includes a beginning, intervening milestones, and an end
- Primary-Secondary Projects – defined below and approved Oct. 12, 2004

The CIP frequently contains several projects that are similar in nature. For example, Public Works often proposes projects to replace or upgrade traffic signals at several different intersections throughout the City. Each intersection is formally a separate project, and funding may not be moved from one traffic signal project to another traffic signal project without Council action.

On October 12, 2004, the City Council approved grouping similar projects together in a “primary-secondary” relationship. Following the traffic signal example, “Traffic Signals” is the “primary” project, with individual “secondary” projects dedicated to each specific intersection where a project will be performed. The primary project description includes a description of each of the secondary projects related to it.

The primary project serves as the budgetary control device within the CIP. As approved, the City Manager has the authority to move CIP funding from one secondary project to another secondary project, as long as the overall primary project budget does not change. This approach allows for greater flexibility and efficiency when programming multiple CIPs of the same type.

- Maintenance costs to increase the life of the City’s infrastructure, replacement costs for infrastructure and reserves for future projects are not defined as a CIP, but are included in the CIP budget document. Examples of these include:
  - Pavement maintenance
  - Water Downstream Improvements
  - Fleet Maintenance Facility

### Process

Existing projects are reviewed annually. This review compares user status and financial information to identify project progress and completion. This will be integrated into the budget proforma review process.

The Finance Department will work with the CIP project managers to develop CIP revenue forecasts for the budget year. This analysis will be compiled and distributed by the Finance Department to the appropriate project managers.

Projects to be closed will be identified by the project managers and submitted by the appropriate Department Director to the City Manager for closure. The City Manager has the final authority to close the projects. (CIP Closure Form).

The City Manager and Deputy City Manager and Department Heads review and prioritize all existing CIP’s to assure consistency with the City’s General Plan and the City’s vision statement.

Section 65401 of the Government Code and Section 10-1.102 of the Modesto Municipal Code, requires the Planning Commission review all capital improvement projects to determine if they conform with the City's adopted *Modesto Urban Area General Plan*.

The City Council will review new projects and approve re-appropriation of funds for existing projects as part of the annual budget cycle.

### Capital Improvement Program (CIP) Policies

**CIP Projects.** Large construction projects, equipment purchases, infrastructure maintenance, replacement costs and future reserves will be included in the Capital Improvement Program.

**CIP Purpose.** The purpose of the CIP is to systematically plan, schedule, manage, monitor and finance capital projects to ensure cost-effectiveness as well as conformance with established policies. The CIP is a ten-year plan organized into the same functional groupings used for the operating programs. The CIP reflects a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure; and capital facility projects that significantly expand or add to the City's existing fixed assets.

**Project Manager.** Every CIP project will have a project manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status. The project manager ensures that projects comply with Community Facility District (CFD) and Capital Facility Fees (CFF) regulations.

**Projects may be appropriated for anticipated revenues but cannot be spent until revenues documents have been received.**

Each proposed CIP project will include the approximate location, size, completion date (est.) and estimate of costs and source of funding such as General Fund, Capital Facility Fees, Federal or State Grant, etc.

**CIP Appropriation.** The City's annual CIP appropriation for study, design, acquisition and/or construction is based on the projects designated by the Council through adoption of the Budget.

**Adoption of the CIP appropriation does not automatically authorize funding for a specific project phase.** Project engineering and preliminary engineering will be appropriated at the time of Council action.

Authorization for construction generally occurs only after:

- The costs for the phases have been fully developed
- A grant is awarded and a copy of award is received in Finance
- A contract is granted after a competitive bid process
- A request for proposal (RFP) is approved by Council.

Actions involving any Federal or State funded CIP are restrained by the conditions of the grant.

Accordingly, if contract costs at the time of bid award are less than the budgeted amount, the unobligated balance will either be re-appropriated to project contingency or returned to fund balance. This action should be clearly explained in the fiscal impact section of a Council document and include any estimate for City engineering costs and required contingency to complete the project.

If project costs at the time of bid award are greater than budget amounts, four options are typically available:

1. Eliminate the project.
2. Defer the project for consideration to the next Budget cycle.
3. Re-scope or change the phasing of the project to meet the existing budget.
4. Appropriate additional resources as necessary from fund balance or other revenue sources.

For new CIP projects outside of the adoption process, resources need to be identified:

- Is there sufficient fund balance or monitored cash flow?
- Has an invoicing procedure been established?
- If sufficient funds are not available then lower priority projects may need to be eliminated and the budget for that project returned to fund balance and then re-appropriated to the higher priority project.

**Project Status.** Project milestones will be listed as objectives in the program narratives to facilitate project tracking

#### **CIP Project Reporting and Update Process**

- Cost Estimates/Actuals by Phase
- Schedule (Time Line)
- Accounting Procedures/Revenue Tracking/Grant Invoicing /Project Closeout Procedures
- Timely Status Update Reporting (Note: Cost overruns and funding needs to be determined early. Updated costs and postponed timelines flag potential funding issues.)

#### **CIP Authority - Council**

1. City Council has authority to create new CIPs.
2. City Council has authority to increase the budget of CIPs.

#### **CIP Authority – City Manager**

1. City Manager has authority to close any CIP and to return project funds to the fund balance.
2. City Manager has authority to appropriate project contingency funds to individual budget lines.
3. The City Manager has authority to move funds between secondary projects of a primary CIP. The primary CIP budget will not change.
4. **NEW policy:** The City Manager has authority to approve funding source changes within a projects

Example: Project starts with full funding from CFF. After the adoption PW applies for CMAQ funds and list eligible projects. If a CFF project is eligible the City Manager can substitute one revenue source for another.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-082**

**A RESOLUTION AUTHORIZING STAFF TO ISSUE A REQUEST FOR PROPOSALS TO SELL, INSTALL AND MAINTAIN ADVERTISING ON THE EXTERIORS OF MODESTO AREA EXPRESS BUSES**

WHEREAS, the City of Modesto's Modesto Area Express (MAX) transit system operates approximately 46 buses within the Modesto urban area, and

WHEREAS, a market appears to exist for the placement of advertising on the exteriors of MAX buses, and

WHEREAS, the Public Works Department staff recommended to the Economic Development Committee (EDC) that it authorize staff to issue a Request for Proposals (RFP) for the sale, placement and maintenance of advertising on the exteriors of MAX buses, and

WHEREAS, the EDC met on January 10, 2005 and supported this recommendation, and

WHEREAS, by an agenda report to the City Council dated January 21, 2005, from the Public Works Director, City staff recommended to the Council that it authorize staff to issue an RFP for the sale, placement and maintenance of advertising on the exteriors of MAX buses, and

WHEREAS, initial selection will be made by an evaluation panel of City and outside agency staff based on criteria outlined in said agenda report dated January 21, 2005, and

WHEREAS, said panel will make its recommendation to the Economic Development Committee which will then make a recommendation to the full Council,

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

that it hereby authorize staff to issue an RFP for the sale, placement and maintenance of advertising on the exteriors of MAX buses.

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 February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-083**

**A RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT  
IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION IN THE AMOUNT  
OF \$1,300,000 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 United States Congress has allocated for this fiscal year \$3.7 billion dollars to airports for their airport improvements, and

WHEREAS, the FAA has requested the City to submit its revised Airport Capital Improvement Plan (ACIP) by November 19, 2004 and its request for project funding by February 25, 2005, and

WHEREAS, the Airport Advisory Committee supported the airport's revised ACIP at their September 15, 2004 meeting, and

WHEREAS, the Economic Development Committee considered the revised ACIP at their October 11, 2004 meeting, and endorsed recommending it for City Council approval, and

WHEREAS, the City Council approved the revised ACIP at their meeting on October 26, 2004, and the revised ACIP, in the amount of \$3.7 million, has been submitted to the FAA, and

WHEREAS, the federal grant application is consistent with the City's approved revised ACIP, and includes projects to rehabilitate the aircraft parking apron and upgrade the airport security identification area (SIDA), in an amount totaling \$1,300,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submitting a grant application in the amount of \$1.3 million to the FAA for Airport Improvement Program funds.

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 8<sup>th</sup> day of February, 2005 by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO 2005-84**

**Was Not Used**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-085**

**RESOLUTION ACCEPTING THE WORK BY AMERINE SYSTEMS, INC., FOR  
THE "WELL 312, SOUTH STREET, EMPIRE" PROJECT AS COMPLETE,  
AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION,  
AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$240,453.05  
PER THE CONTRACT. TOTAL PROJECT COST IS \$345,687.66**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Well 312, South Street, Empire" has been completed by Amerine Systems, Inc., in accordance with the contract agreement dated April 1, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Well 312, South Street, Empire" project be accepted from said contractor, by Amerine Systems, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$240,453.05, 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 February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-086**

**RESOLUTION ACCEPTING THE WORK BY INDUSTRIAL FENCE  
COMPANY, INC., FOR THE "THOUSAND OAKS LIFT STATION FENCE"  
PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A  
NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS  
DUE TOTALING \$59,989.85 PER THE CONTRACT. TOTAL PROJECT COST  
IS \$140,372.87**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Thousand Oaks Lift Station Fence" has been completed by Industrial Fence Company, Inc., in accordance with the contract agreement dated May 11, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Thousand Oaks Lift Station" project be accepted from said contractor, Industrial Fence Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$59,989.85, 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 8th day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-087

RESOLUTION ACCEPTING THE WORK BY JACINO ELECTRICAL FOR THE "STREET ILLUMINATION – MCHENRY VILLAGE AREA" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$52,878 PER THE CONTRACT. TOTAL PROJECT COST IS \$77,101

WHEREAS, a report has been filed by the Public Works Director that the project titled "Street Illumination – McHenry Village Area" has been completed by Jacino Electrical in accordance with the contract agreement dated May 27, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Street Illumination – McHenry Village Area" project be accepted from said contractor, Jacino Electrical, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$52,878, 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 February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-088**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO  
MITCHELL'S MODESTO HARLEY-DAVIDSON OF MODESTO, CA FOR  
EIGHT (8), 2005 HARLEY DAVIDSON POLICE MOTORCYCLES FOR AN  
ESTIMATED TOTAL COST OF \$126,543.20**

WHEREAS, the Public Works Department-Fleet Services Division had requested the purchase of eight (8), 2005 Police motorcycles, and

WHEREAS, the Modesto Police Department currently has sixteen (16), Harley Davidson Police motorcycles, and

WHEREAS, eight (8) of those motorcycles are replaced each year on a two-year rotation cycle to keep them in an active warranty status, and

WHEREAS, the two-year warranty and current replacement cycle results in lower operation costs on these motorcycles, and

WHEREAS, the two-year replacement cycle also provides for a greater trade-in allowance value to the City of Modesto on the used motorcycles, and

WHEREAS, the total cost of the eight (8) motorcycles is approximately \$126,543.20 including freight and sales tax, and

WHEREAS, the trade-in allowance of \$78,000.00, reduces the total net cost of the motorcycles to approximately \$48,543.20 including freight and sales tax, and

WHEREAS, Resolution 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for eight (8), 2005 Police Motorcycles on Request for Bid (RFB) 0405-09-01, and

WHEREAS, out of seven (7) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-09-1 by the Purchasing Division and the Public Works Department Fleet Services staff, and

WHEREAS, Mitchell's Harley-Davidson of Modesto, CA. was deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for eight (8), 2005 Harley-Davidson Police motorcycles to Mitchell's Harley-Davidson of Modesto, CA. for an estimated total cost of \$126,543.20.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-089**

**A RESOLUTION AUTHORIZING THE ACTING CITY MANAGER TO  
ACCEPT \$78,000 AS THE TRADE-IN VALUE OF EIGHT (8) USED 2002  
POLICE MOTORCYCLES TOWARDS SAID PURCHASE**

WHEREAS, the Public Works Department-Fleet Services Division had requested the purchase of eight (8), 2005 Police motorcycles, and

WHEREAS, the Modesto Police Department currently has sixteen (16), Harley Davidson Police motorcycles, and

WHEREAS, eight (8) of those motorcycles are replaced each year on a two-year rotation cycle to keep them in an active warranty status, and

WHEREAS, the two-year warranty and current replacement cycle results in lower operation costs on these motorcycles, and

WHEREAS, the two-year replacement cycle also provides for a greater trade-in allowance value to the City of Modesto on the used motorcycles, and

WHEREAS, the total cost of the eight (8) motorcycles is approximately \$126,543.20 including freight and sales tax, and

WHEREAS, the trade-in allowance of \$78,000.00, reduces the total net cost of the motorcycles to approximately \$48,543.20 including freight and sales tax, and

WHEREAS, Resolution 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for eight (8), 2005 Police Motorcycles on Request for Bid (RFB) 0405-09-01, and

WHEREAS, out of seven (7) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-09-1 by the Purchasing Division and the Public Works Department Fleet Services staff, and

WHEREAS, Mitchell's Harley-Davidson of Modesto, CA. was deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED that the Acting City Manager is hereby authorized to accept \$78,000 as the trade-in value of eight (8) 2002 Police motorcycles towards the purchase of said eight (8) 2005 Harley-Davidson Police motorcycles.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
Michael D. Milich, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-090**

**A RESOLUTION AMENDING THE VILLAGE ONE FACILITIES  
PRIORITIZATION LIST AND AMENDING POLICIES WITH RESPECT TO  
ADMINISTRATION OF THE VILLAGE ONE FACILITIES PRIORITIZATION  
LIST**

WHEREAS, on January 7, 2003 the City Council did adopt, pursuant to Resolution No. 2003-20A, the Village One Facilities Prioritization List (“Facilities Prioritization List”) to the City Council for consideration, and

WHEREAS, on June 10, 2003, the City Council did amend, pursuant to Resolution No. 2003-289, the Facilities Prioritization List to move Project SD-214 from Priority 2 to Priority 1 to realize a savings of approximately \$123,119.73, and

WHEREAS, staff has reviewed the Facilities Prioritization List taking into consideration all of the new and proposed development in the Village One area as well as the needs of the current Village One residents, and

WHEREAS, staff recommends that the Facilities Prioritization List be amended to meet the needs of current residents and the new and propose development in the Village One area, and

WHEREAS, the City Council has expressed concern about the length of time it takes to acquire right-of-way and the negative impact this has on the construction of needed facilities, and

WHEREAS, staff recommends that the Facilities Prioritization List policy guidelines be amended to address the City Council’s concerns regarding right-of-way acquisition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Village One Facilities Prioritization List, attached hereto as **Exhibit “A”**, is hereby approved modifying the following projects:

1. A portion of Project INT-005 be combined with RD-010 (Floyd Avenue widening between Oakdale Road and Roselle Avenue) and be moved from Priority 2 to Priority 1
2. The remainder of Project INT-005 be moved from Priority 2 to Priority 5.

3. Move project PK-005C (Freedom Park Phase 3,4 & 5 Park Construction) from Priority 3 to Priority 2.
4. Move project PK-004A (Claus Park Street Improvements) from Priority 3 to Priority 2.
5. Move project RD-010 (Floyd Ave. between Fine and Claus) from Priority 4 to Priority 3.
6. Move project INT-007 (Roselle & Merle Intersection Control and Road Widening) from Priority 2 to Priority 4.
7. Move project INT-008 (Roselle & Belharbour Intersection Control and Road Widening) from Priority 3 to Priority 2.
8. Move project SD-213 (East Basin Property Acquisition) from Priority 3 to Priority 4.
9. Move project RD-014 (Roselle Ave.-Briggsmore to Merle, median closure) from Priority 2 to Priority 4.
10. Move projects SD-216 (6 AC-ft retention basin on Freedom Park) and SD-217 (1200' of 36" storm drain overflow line from Fine Ave. to Freedom Park) from Priorities 2 & 3 to Priority 5.

BE IT FUTHER RESOLVED that the following Facilities Prioritization List policy guidelines are hereby amended as follows:

1. Except for acquisition of right-of-way, until all projects within a higher priority, with Priority 1 being the highest priority, (i) have been constructed by Community Facilities District No. 1996-1 ("CFD"), (ii) have been constructed by a third party, pursuant to a contract executed with the CFD, and reimbursement has been paid to said third party, or (iii) funds have been reserved to construct the remaining projects within said priority, no projects within a lower priority shall be constructed by the CFD, no reimbursement shall be paid to a third party for construction of lower priority work and no funds shall be reserved for lower priority work. Right-of-way acquisition may occur within a lower priority, even though that priority is not currently funding construction projects.

2. A third party due reimbursement from the CFD, pursuant to an executed contract with the CFD, shall be placed in position, within a priority, based upon the date the Notice of Completion is issued for the work performed under said contract.
3. The City Council may, by subsequent action of the City Council, move a project or projects from one priority to another priority.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:   
MICHAEL D. MILICH, City Attorney

## **Exhibit A**

Attachment #2 to the Staff Report

# Existing

## Village One Projects (All or Partially Funded by the CFD) Facilities Priority List Priorities 1 & 2

Updated November 2004

Priority 1 Facilities		
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 West	\$608,700.00
SD-206	Central Basin Inlet Structures and 100' of 30" RCP and 24" FM	\$108,000.00
SD-207	Force Main from West Basin to Central Basin (100' of 30" C-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 Merle 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	\$2,242,000.00
RD-002	Sylvan Avenue - South side in front of Symphony Park (requires condemnation of 2 homes) (ROW 02/03)	\$820,000.00
INT-009	Roselle & Floyd Intersection Control & Road Widening	\$2,595,000.00
RD-007	Floyd Avenue - North side between Oakdale and Roselle	\$4,435,000.00
RD-006	Pedestrian Overcrossing (Design 03/04)	\$1,542,000.00
RD-004A	Sylvan Avenue - South side between Roselle and Millbrook (ROW 03/04)	\$863,000.00
RD-004B	Sylvan Avenue - North side between Roselle and property line between Grogan Park and High School (ROW 03/04)	\$1,331,000.00
M-001A	Planning Recoup (1/4 of total)	\$189,750.00
M-003A	ROW Contingency	\$382,000.00
<b>Priority 1 Total:</b>		<b>\$21,896,850.00</b>

Priority 2 Facilities		
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)	\$2,115,000.00
RD-009	Floyd Avenue - Full width between Millbrook and Fine	\$2,845,000.00
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	\$295,000.00
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	\$1,966,000.00
PK-005B	Merle Park Phase 1 & 2 Park Construction	\$472,100.00
M-001B	Planning Recoup (1/4 of total)	\$189,750.00
M-003B	ROW Contingency	\$63,500.00
<b>Priority 2 Total:</b>		<b>\$9,474,650.00</b>

# Existing

## Village One Projects (All or Partially Funded by the CFD) Facilities Priority List Priorities 3, 4, 5 & 6

Updated November 2004

Priority 3 Facilities		
FMP#	Facility	Cost
SD-213	East Basin Property Acquisition	\$3,500,000.00
SD-217	1200' of 36" RCP overflow line from Fine to Merle Park	\$204,100.00
PK-004A	Claus Park Street Improvements (Half width along Park)	\$415,100.00
RD-015	Roselle Avenue - between Sylvan & Floyd	\$3,520,000.00
INT-008	Roselle & Belharbour Intersection Control & Road Widening	\$757,000.00
PK-005C	Merle Park Phase 3,4 & 5 Park Construction	\$175,000.00
INT-004	Oakdale & Road G Intersection Control & Road Widening	\$946,000.00
INT-002	Sylvan & Litt Intersection Control & Road Widening	\$1,024,000.00
PK-004B	Claus Park Phase 1 & 2 Park Construction	\$375,800.00
INT-003	Sylvan & Aria Intersection Control & Road Widening	\$846,000.00
INT-011	Claus & Sylvan Intersection Control & Road Widening	\$1,059,000.00
M-001C	Planning Recoup (1/4 of total)	\$189,750.00
M-003C	ROW Contingency	\$145,000.00
<b>Priority 3 Total:</b>		<b>\$13,156,750.00</b>

Priority 4 Facilities		
FMP #	Facility	Cost
RD-010	Floyd Avenue - Full width between Fine and Claus	\$2,428,000.00
RD-012	Oakdale Road - Widening between Floyd and Road G	\$1,368,000.00
RD-001A	Sylvan Avenue - South side between Oakdale Rd. and Wood Sorrell	\$1,496,000.00
RD-003	Sylvan Avenue - North side between Aria and Roselle	\$2,279,000.00
RD-001B	Sylvan Avenue - North side between Oakdale and Aria	\$1,763,000.00
RD-005	Sylvan Avenue - North Side between Litt and Claus	\$1,534,000.00
INT-001	Sylvan & Oakdale	\$2,657,000.00
RD-013	Oakdale Road - Road G to Sylvan	\$1,154,000.00
INT-006	Oakdale and Briggsmore modification	\$98,000.00
RD-011	Oakdale Road - Briggsmore to Floyd	\$35,000.00
M-001D	Planning Recoup (1/4 of total)	\$189,750.00
M-003D	ROW Contingency	\$321,000.00
<b>Priority 4 Total:</b>		<b>\$15,322,750.00</b>

Priority 5 Facilities		
FMP#	Facility	Cost
RD-016	Roselle Avenue - Full width between Sylvan to northern City limit (high school will do some of these improvements)	\$2,389,000.00
SD-219A	East Basin Construction	\$2,025,000.00
SD-219B	East Basin Landscaping	\$2,352,200.00
SD-215	7 AC-ft Retention basin on Grogan Park	\$81,000.00
SD-220	Claus Rd. trunk line from Floyd to East Basin	\$2,700,000.00
SD-223	850' of 30" RCP (W-21 - W-22, CDM Report) Hillglen	\$120,500.00
SD-221	East Basin Pump Station and completion of basin	\$540,000.00
PK-001A	Grogan Park Phase 1 & 2 Park Construction	\$6,051,300.00
PD-001	Police Substation - Tenant Improvements	\$27,500.00
SD-229	Force Main from East Basin to Claus Rd. line	\$135,000.00
SD-222	Force Main from Central Basin to Claus Rd. line	\$540,000.00
M-003E	ROW Contingency	\$29,000.00
<b>Priority 5 Total:</b>		<b>\$16,990,500.00</b>

Priority 6 Facilities (Unlikely To Be Funded From CFD)		
FMP#	Facility	Cost
	Claus Road -Gas Line Relocation	CFF
PK-001B	Grogan Park Phase 3 & 4 Construction	\$4,131,500.00
PK-007	Claus Urban Expressway Trail	\$4,828,600.00
M-002	Monumentation & Signage	\$500,000.00
PK-006	Bike Trail - MID Lat. #3	\$1,479,100.00
PK-002	Buffer	\$213,100.00
<b>Priority 6 Total:</b>		<b>\$11,152,300.00</b>

**Total Cost for Priority 1 thru 6 items= \$87,993,800.00**

# Proposed

## Village One Projects (All or Partially Funded by the CFD)

### Facilities Priority List

#### Priorities 1 & 2

Proposed February 2005 update

Priority 1 Facilities		
FMP #	Facility	Cost
SD-300	Bear Cub Lane, Kodiak Drive, Hilliglen 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	Hilliglen Ave. 60" RCP from Roselle to Sta	\$608,700.00
SD-206	Central Basin Inlet Structures and 80' of 36" RCP and 24" FM)	\$108,000.00
SD-207	Force Main from West Basin to Central Basin (100' of 36" C 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 Mill 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
M-001A	Planning Recoup(1/4 of total)	\$189,750.00
INT-010	Sylvan & Roselle Intersection - Intersection Control & Road Widening	\$2,242,000.00
RD-002	Sylvan Avenue - South side in front of Symphony Park (requires condemnation of 2 homes) (ROW 02/03)	\$820,000.00
INT-009	Roselle & Floyd Intersection Control & Road Widening	\$2,595,000.00
RD-007	Floyd Avenue - North side between Oakdale and Roselle(Project Limits Increased, No change in Priority	\$5,134,000.00
RD-006	Pedestrian Overcrossing (Design 03/04)	\$1,542,000.00
RD-004A	Sylvan Avenue - South side between Roselle and Millbrook (ROW 03/04)	\$863,000.00
RD-004B	Sylvan Avenue - North side between Roselle and property line between Grogan Park and High School (ROW 03/04)	\$1,331,000.00
M-003A	ROW Contingency	\$382,000.00
		<b>\$22,595,850.00</b>

Priority 2 Facilities		
FMP #	Facility	Cost
RD-008	Floyd Avenue - Full width between Roselle and Millbrook (not including Lawson property frontage)	\$2,115,000.00
RD-009	Floyd Avenue - Full width between Millbrook and Fine	\$2,845,000.00
PK-005A	Freedom Park Street Improvements (Half width along Park)	\$302,600.00
PK-005B	Freedom Park Phase 1 & 2 Park Construction	\$472,100.00
PK-005C	Freedom Park Phase 3,4 & 5 Park Construction(Moved Up from Priority 3 to Priority 2)	\$175,000.00
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
PK-003B	Ustach Park Phase 3,4 & 5 Park Construction (Payback per agreement)	\$225,000.00
INT-008	Roselle & Belharbour Intersection Control & Road Widening(Moved Up from Priority 3 to Priority 2)	\$757,000.00
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
PK-004A	Claus Park Street Improvements (Half width along Park)(Moved Up from Priority 3 to Priority 2)	\$415,100.00
M-001B	Planning Recoup (1/4 of total)	\$189,750.00
M-003B	ROW Contingency	\$63,500.00
<b>Priority 2 Total:</b>		<b>\$8,470,250.00</b>

# Proposed

## Village One Projects (All or Partially Funded by the CFD)

### Facilities Priority List

#### Priorities 3, 4, 5 & 6

Proposed February 2005 update

Priority 3 Facilities		
FMP#	Facility	Cost
RD-015	Roselle Avenue - between Sylvan & Floyd	\$3,520,000.00
INT-004	Oakdale & Road G Intersection Control & Road Widening	\$946,000.00
INT-002	Sylvan & Litt Intersection Control & Road Widening	\$1,024,000.00
RD-005	Sylvan Avenue - North Side between Litt and Claus	\$1,534,000.00
PK-004B	Claus Park Phase 1 & 2 Park Construction	\$375,800.00
INT-003	Sylvan & Aria Intersection Control & Road Widening	\$846,000.00
INT-011	Claus & Sylvan Intersection Control & Road Widening	\$1,059,000.00
RD-010	Floyd Avenue - Full width between Fine and Claus <b>(Move Up from Priority 4 to Priority 3)</b>	\$2,428,000.00
M-001C	Planning Recoup (1/4 of total)	\$189,750.00
M-003C	ROW Contingency	\$145,000.00
<b>Priority 3 Total:</b>		<b>\$12,067,550.00</b>

Priority 4 Facilities		
FMP #	Facility	Cost
RD-012	Oakdale Road - Widening between Floyd and Road G	\$1,368,000.00
INT-007	Roselle & Merle Intersection Control & Road Widening <b>(Move Down from Priority 2 to Priority 4)</b>	\$295,000.00
RD-001A	Sylvan Avenue - South side between Oakdale Rd. and Wood Sorrell	\$1,496,000.00
RD-003	Sylvan Avenue - North side between Aria and Roselle	\$2,279,000.00
RD-001B	Sylvan Avenue - North side between Oakdale and Aria	\$1,763,000.00
INT-001	Sylvan & Oakdale	\$2,657,000.00
RD-013	Oakdale Road - Road G to Sylvan	\$1,154,000.00
INT-006	Oakdale and Briggsmore modification	\$98,000.00
RD-011	Oakdale Road - Briggsmore to Floyd	\$35,000.00
SD-213	East Basin Property Acquisition <b>(Move Down from Priority 3 to Priority 4)</b>	\$3,500,000.00
RD-014	Roselle Ave. - Briggsmore to Merle (median closure) <b>(Move Down from Priority 2 to Priority 4)</b>	\$23,000.00
M-001D	Planning Recoup (1/4 of total)	\$189,750.00
M-003D	ROW Contingency	\$321,000.00
<b>Priority 4 Total:</b>		<b>\$15,178,750.00</b>

Priority 5 Facilities		
FMP#	Facility	Cost
RD-016	Roselle Avenue - Full width between Sylvan to northern City limit (high school will do some of these improvements)	\$2,389,000.00
INT-005	Oakdale & Floyd <b>(Move down from Priority 2 to Priority 5)</b>	\$1,267,000.00
SD-219A	East Basin Construction	\$2,025,000.00
SD-219B	East Basin Landscaping	\$2,352,200.00
SD-215	7 AC-ft Retention basin on Grogan Park	\$81,000.00
SD-220	Claus Rd. trunk line from Floyd to East Basin	\$2,700,000.00
SD-223	850' of 30" RCP (W-21 - W-22, CDM Report) Hillglen	\$120,500.00
SD-221	East Basin Pump Station and completion of basin	\$540,000.00
PK-001A	Grogan Park Phase 1 & 2 Park Construction	\$6,051,300.00
PD-001	Police Substation - Tenant Improvements	\$27,500.00
SD-229	Force Main from East Basin to Claus Rd. line	\$135,000.00
SD-222	Force Main from Central Basin to Claus Rd. line	\$540,000.00
SD-216	6 AC-ft Retention basin on Merle Park <b>(Move Down from Priority 2 to Priority 5)</b>	\$67,500.00
SD-217	1200' of 36" RCP overflow line from Fine to Merle Park <b>(Move Down from Priority 3 to Priority 5)</b>	\$204,100.00
M-003E	ROW Contingency	\$29,000.00
<b>Priority 5 Total:</b>		<b>\$18,529,100.00</b>

Priority 6 Facilities (Unlikely To Be Funded From CFD)		
FMP#	Facility	Cost
	Claus Road -Gas Line Relocation	CFF
PK-001B	Grogan Park Phase 3 & 4 Construction	\$4,131,500.00
PK-007	Claus Urban Expressway Trail	\$4,828,600.00
M-002	Monumentation & Signage	\$500,000.00
PK-006	Bike Trail - MID Lat. #3	\$1,479,100.00
PK-002	Buffer	\$213,100.00
<b>Priority 6 Total:</b>		<b>\$11,152,300.00</b>

**Total Cost for Priority 1 thru 6 items= \$87,993,800.00**



# Existing

**City of Modesto  
CFD Fund  
Project Detail Sheet**

**Project Number:** CFD INT005  
**Project Title:** Oakdale & Floyd Intersection  
**Location:** Oakdale & Floyd  
**Revised:**

**Project Description:** Construct Oakdale/Floyd intersection.

**Project Status:** A temporary taper will be required on North leg of Oakdale.

**Project Notes:**

**NEW COST ESTIMATE:**

Item	Quantity	New Cost Estimate	
		Unit Price	Total Cost
Clearing & Grubbing (SF)	91300	\$0.10	\$9,130
Remove Pavement (SY)	300	\$2.50	\$750
Roadway Excavation (CY)	5200	\$15.00	\$78,000
Asphalt Concrete (Ton)	2700	\$45.00	\$121,500
Aggregate Base (Ton)	8200	\$25.00	\$205,000
Curb & Gutter (LF)	2400	\$15.00	\$36,000
Median Curb (LF)	1000	\$18.00	\$18,000
Sidewalk (SF)	12800	\$3.00	\$38,400
Parkway Landscaping (SF)	13000	\$4.50	\$58,500
Landscaping (SF)	2200	\$4.35	\$9,570
Electroliers	9	\$5,000.00	\$45,000
Signing and Striping (SF)	65600	\$0.10	\$6,560
Reconstr Priv. Imp's (LS)	3	\$50,000	\$150,000
Storm Drainage (LS)	1	\$66,000	\$66,000
Relocate Power Poles (EA)	20	\$15,000	\$300,000
<b>Construction Total:</b>			<b>\$1,142,410</b>
35% Mark-up:			\$399,844
Right Of Way - undeveloped (ac)	0.77	\$350,000	\$269,500
Right Of Way comm developed(ac)	0.28	\$550,000	\$154,000
<b>Total:</b>			<b>\$1,965,754</b>
<b>Say:</b>			<b>\$1,966,000</b>

Updated November 2004

# Existing

**City of Modesto  
CFD Fund  
Project Detail Sheet**

**Project Number:** CFD RD007

**Project Title:** Floyd Avenue Widening

**Location:** Floyd Avenue - Oakdale to Rosella

**Revised:**

**Project Description:** Widen Floyd Avenue to four lanes plus bike lanes and parking.

**Project Status:**

**Project Notes:** Exist improvements on south side of road to remain.

**NEW COST ESTIMATE:**

Item	Quantity	New Cost Estimate	
		Unit Price	Total Cost
Clearing & Grubbing (SF)	240800	\$0.10	\$24,080
Remove Pavement (SY)	11300	\$2.50	\$28,250
Roadway Excavation (CY)	16400	\$15.00	\$246,000
Asphalt Concrete (Ton)	7900	\$45.00	\$355,500
Aggregate Base (Ton)	26000	\$25.00	\$650,000
Curb & Gutter (LF)	4100	\$15.00	\$61,500
Median Curb (LF)	8100	\$18.00	\$145,800
Sidewalk (SF)	16300	\$3.00	\$48,900
Parkway Landscaping (SF)	32500	\$4.50	\$146,250
Landscaping (SF)	44200	\$4.35	\$192,270
Electroliers	15	\$5,000.00	\$75,000
Signing and Striping (SF)	192000	\$0.10	\$19,200
Reconstr Priv. Imp's (LS)	1	\$10,000	\$10,000
Storm Drainage (LS)	1	\$288,500	\$288,500
Relocate 17 Power Poles + 2 Steel Utility Poles	1	\$325,000	\$325,000
<b>Construction Total:</b>			<b>\$2,616,250</b>
35% Mark-up:			\$915,688
Right Of Way (ac)	5.02	\$150,000	\$753,000
Acquisition Cost	5	\$30,000	\$150,000
		<b>Total:</b>	<b>\$4,434,938</b>
		<b>Say:</b>	<b>\$4,435,000</b>

# Proposed

**City of Modesto  
CFD Fund  
Project Detail Sheet**

**Project Number:** CFD RD007  
**Project Title:** Floyd Avenue Widening  
**Location:** Floyd Avenue - Oakdale to Roselle  
**Revised:**

**Project Description:** Widen Floyd Avenue to four lanes plus bike lanes and parking.

**Project Status:** 2005 -Updated to include NE corner of Oakdale/Floyd

**Project Notes:** Exist improvements on south side of road to remain.

**NEW COST ESTIMATE:**

Item	Quantity	New Cost Estimate	
		Unit Price	Total Cost
Clearing & Grubbing (SF)	309300	\$0.10	\$30,930
Remove Pavement (SY)	11325	\$2.50	\$28,313
Roadway Excavation (CY)	20300	\$15.00	\$304,500
Asphalt Concrete (Ton)	9925	\$45.00	\$446,625
Aggregate Base (Ton)	32150	\$25.00	\$803,750
Curb & Gutter (LF)	4770	\$15.00	\$71,550
Median Curb (LF)	8430	\$18.00	\$151,740
Sidewalk (SF)	19900	\$3.00	\$59,700
Parkway Landscaping (SF)	42250	\$4.50	\$190,125
Median Landscaping (SF)	45850	\$4.35	\$199,448
Electroliers	18	\$5,000.00	\$90,000
Signing and Striping (SF)	241200	\$0.10	\$24,120
Reconstr Priv. Imp's (LS)	1	\$10,000	\$10,000
Storm Drainage (LS)	1	\$338,000	\$338,000
Relocate Power Poles (EA) 21 wood poles, 2 steel poles	21	\$15,000	\$385,000
<b>Construction Total:</b>			<b>\$3,133,800</b>
35% Mark-up:			\$1,096,830
Right Of Way (ac)	5.02	\$150,000	\$753,000
Acquisition Cost	5	\$30,000	\$150,000
<b>Total:</b>			<b>\$5,133,630</b>
<b>Say:</b>			<b>\$5,134,000</b>

Updated January 2005

# Proposed

## City of Modesto CFD Fund Project Detail Sheet

Project Number: CFD INT005

Project Title: Oakdale & Floyd Intersection

Location: Oakdale & Floyd

Revised:

Project Description: Construct Oakdale/Floyd intersection.

Project Status: A temporary taper will be required on North leg of Oakdale.

Project Notes: 2005 Update-Approx 75% of intx will be improved with RD-007  
Reduce most quantities by 75%

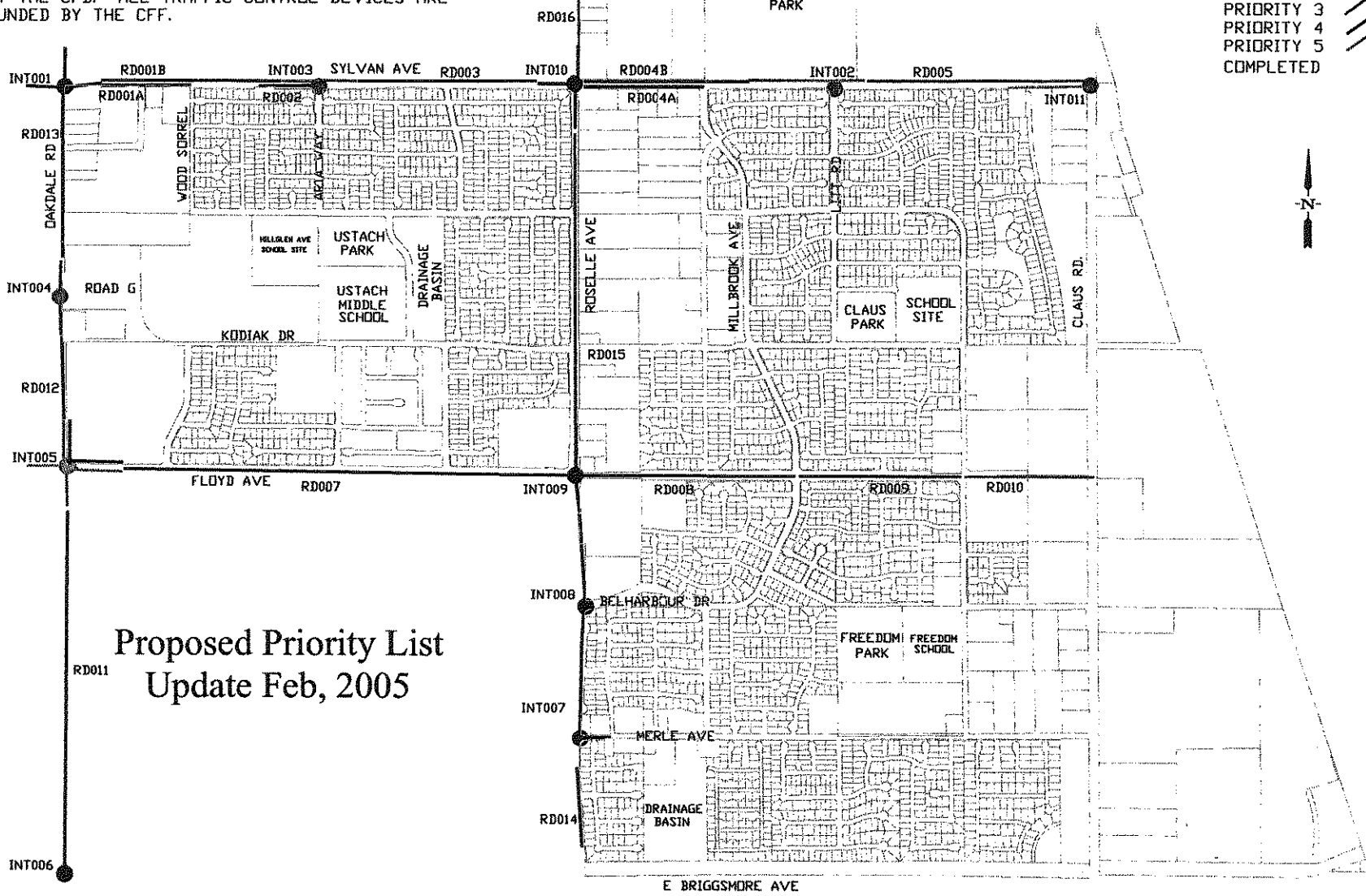
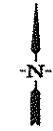
### NEW COST ESTIMATE:

Item	Quantity	New Cost Estimate	
		Unit Price	Total Cost
Clearing & Grubbing (SF)	22800	\$0.10	\$2,280
Remove Pavement (SY)	275	\$2.50	\$688
Roadway Excavation (CY)	1300	\$15.00	\$19,500
Asphalt Concrete (Ton)	675	\$45.00	\$30,375
Aggregate Base (Ton)	2050	\$25.00	\$51,250
Curb & Gutter (LF)	1730	\$15.00	\$25,950
Median Curb (LF)	670	\$18.00	\$12,060
Sidewalk (SF)	9200	\$3.00	\$27,600
Parkway Landscaping (SF)	3250	\$4.50	\$14,625
Median Landscaping (SF)	550	\$4.35	\$2,393
Electroliers	6	\$5,000.00	\$30,000
Signing and Striping (SF)	16400	\$0.10	\$1,640
Reconstr Priv. Imp's (LS)	3	\$50,000	\$150,000
Storm Drainage (LS)	1	\$16,500	\$16,500
Relocate Power Poles (EA)	16	\$15,000	\$240,000
<b>Construction Total:</b>			<b>\$624,860</b>
35% Mark-up:			\$218,701
Right Of Way - undeveloped (ac)	0.77	\$350,000	\$269,500
Right Of Way comm developed(ac)	0.28	\$550,000	\$154,000
<b>Total:</b>			<b>\$1,267,061</b>
<b>Say:</b>			<b>\$1,267,000</b>

Updated January 2005

**NOTE:**  
 THE EXPRESSWAYS, CLAUS AND BRIGGSMORE, ARE FUNDED BY THE CFF. ALL ARTERIALS ARE FUNDED BY THE CFD. ALL TRAFFIC CONTROL DEVICES ARE FUNDED BY THE CFF.

**CFD PRIORITY**  
 PRIORITY 1  
 PRIORITY 2  
 PRIORITY 3  
 PRIORITY 4  
 PRIORITY 5  
 COMPLETED



**Proposed Priority List  
 Update Feb, 2005**

**PRIORITY MAP**

DATE REVISED	SCALE	DATE BY
PROGRAM MANAGER	DATE	DATE BY
CITY ENGINEER	DATE	DATE BY
100 MAIN STREET, CHICAGO, IL 60601	DATE	DATE BY
<b>Harris &amp; Associates</b>		
<b>VILLAGE ONE FACILITIES MASTER PLAN UPDATE</b>		
<b>PROJECT LOCATION MAP</b>		
<b>ES-1</b>		
SHEET		
OF		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-091**

**A RESOLUTION APPROVING A CONSTRUCTION AGREEMENT AND A LICENSING AGREEMENT WITH THE FIVE MODESTO ROTARY CLUBS OF MODESTO'S 501(C)(3) NON-PROFIT ORGANIZATION, KNOWN AS THE 'UNITED ROTARY CLUBS OF MODESTO', FOR THE CONSTRUCTION OF THE SURFACE LANDSCAPING OF A QUARTER-MILE SECTION OF THE VIRGINIA CORRIDOR ADJACENT TO ROSEBURG SQUARE, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENTS**

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, this phase of the Project will commence on February 23, 2005, with completion anticipated for October 2005, and

WHEREAS, it was decided by City staff that the size and scope of the Five Rotary Club's contribution warrants two agreements; one agreement is for the

performance and completion of the work by the Rotarians, which also includes general liability insurance to be provided by the City of Modesto, and to require that the City of Modesto be listed as additionally insured by Rotary International; and a second agreement provides a site access license for the Rotarians and their contractors, with the same insurance provisions, and

WHEREAS, the Contractors are also to be bonded and insured as per City standard, and

WHEREAS, in order for the Five Modesto Rotary Clubs to enter into these agreements, they have formed a 501(c)(3) Non-Profit Organization called the 'United Rotary Clubs of Modesto', and

WHEREAS, this organization will represent the Five Modesto Rotary Clubs, whose board will sign and administer the agreements for the Five Modesto Rotary Clubs, and

WHEREAS, preceding the Rotary project, the City of Modesto will install the entire infrastructure required to build the surface of the trail and amenities, and

WHEREAS, the infrastructure project is slated to begin at the ground breaking on February 23, 2005, and end in May 2005, weather permitting, and

WHEREAS, the Rotary project will begin in June of 2005, 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 and approved the Specific Plan, and

WHEREAS, the Safety and Communities Committee met on January 3, 2005, and supported the recommendation to enter into the agreements with the United Rotary Clubs of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a construction agreement with the Five Modesto Rotary Clubs of Modesto's 501(c)(3) non-profit organization, known as the 'United Rotary Clubs of Modesto', for the construction of the surface landscaping of a quarter-mile section of the Virginia Corridor adjacent to Roseburg Square.

BE IT FURTHER RESOLVED that the Council hereby approves a licensing agreement with the Five Modesto Rotary Clubs of Modesto's 501(c)(3) non-profit organization, known as the 'United Rotary Clubs of Modesto', for the construction of the surface landscaping of a quarter-mile section of the Virginia Corridor adjacent to Roseburg Square.

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 8<sup>th</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-092**

**A RESOLUTION AUTHORIZING THE ACTING CITY  
MANAGER TO CO-SIGN A LETTER WITH THE STANISLAUS  
COUNTY CHIEF EXECUTIVE OFFICER TO THE U.S. GENERAL  
SERVICES ADMINISTRATION, REQUESTING A 60-DAY  
EXTENSION TO CONSIDER PREPARATION OF A WRITTEN  
EXPRESSION OF INTEREST FOR FUTURE PUBLIC USE OF  
THE MODESTO FEDERAL BUILDING AND POST OFFICE**

WHEREAS, the U.S. General Services Administration (GSA) has sent out a notice stating that the Modesto Federal Building and Post Office (Post Office) will be available to local governments for community benefit, and

WHEREAS, City of Modesto and Stanislaus County staff have been contacted by various community groups interested in public use of the facility, and

WHEREAS, although several ideas have emerged, none have sufficient detail to submit the required written expression of interest by the GSA's deadline, and

WHEREAS, a joint City-County letter could be prepared requesting a 60-day extension to allow community organizations to more fully consider use options and to make a decision on the future use of the facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Acting City Manager to co-sign a letter with the Stanislaus County Chief Executive Officer to the U.S. General Services Administration, requesting a 60-day extension to consider preparation of a written expression of interest for future public use of the Modesto Federal Building and Post 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 February 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-093**

**A RESOLUTION APPOINTING BOND COUNSEL AND FINANCIAL ADVISOR  
WITH RESPECT TO, AND AUTHORIZING SUCH PROFESSIONALS AND  
CITY STAFF TO PROCEED WITH ACTIONS NECESSARY TO EFFECT, A  
PROPOSED REFUNDING OF CERTAIN WASTEWATER TREATMENT  
FACILITY REVENUE BONDS FOR FUTURE CONSIDERATION BY THE  
CITY COUNCIL**

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 and equipping of improvements to the wastewater treatment facilities of the City (the “Enterprise”) or for the purpose of refunding bonds issued for such purposes; and

WHEREAS, staff has identified potential debt service savings to be realized from a proposed refunding of certain of the City’s outstanding wastewater treatment facility revenue bonds; and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed refunding, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refunding, for future consideration by this City Council; and

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

Sidley Austin Brown & Wood LLP, San Francisco, California, is appointed Bond Counsel (“Bond Counsel”) to the City in connection with the proposed refunding of wastewater treatment facility revenue bonds of the City, and Public Financial Management Inc., San Francisco, California, is appointed Financial Advisor (“Financial Advisor”) with respect thereto. The Acting City Manager or Acting Finance Director, or such other officer as may be designated by the Acting City Manager, is authorized and directed, for and in the name of and on behalf of the City, to enter into an agreement with Sidley Austin Brown & Wood LLP for its services as Bond Counsel and with Public Financial Management Inc. for its services as Financial Advisor for the proposed financing.

The officers of the City are authorized and directed to do any and all things and to proceed with any and all actions which they may deem necessary or advisable, including directing the finance professionals appointed pursuant to this Resolution to begin preparation of documents in connection with the proposed refinancing of the City’s wastewater treatment facility revenue bonds, for future consideration by this City Council, and such actions previously taken by such officers are hereby ratified and approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2005, by Councilmember Jackman who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-094**

**A RESOLUTION AMENDING THE GENERAL FUND FISCAL YEAR 2004-2005  
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 04-05 General Fund revenue, and

WHEREAS, these new revenue projections are identified in a staff report to City Council from Finance Department Deputy Director, Greg Baird, and Assistant to the City Manager, Judith Ray, dated January 24, 2005, and

WHEREAS, the Finance Committee reviewed said revenue information at their meetings of January 18, 2005, and January 24, 2005,

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 04-05 to reflect the aforementioned revised revenue projections.

BE IT FURTHER RESOLVED that this action will reduce overall revenue projections to the General Fund in FY 2004-2005 by an estimated \$1.4 million dollars.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February 2005 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-95**

**A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE  
EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT  
AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE  
SELLER'S VEHICLE LICENSE FEE RECEIVABLE FROM THE STATE; AND  
DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN  
CONNECTION THEREWITH**

WHEREAS, certain public agencies within the State of California (the "State") are entitled to receive certain payments payable by the State to each such local agency on or before August 15, 2006, in connection with vehicle license fees pursuant to Section 10754.11 of the California Revenue and Taxation Code ("VLF Gap Repayments");

WHEREAS, the City of Modesto (the "Seller") is entitled to and has determined to sell all right, title and interest of the Seller in and to the "VLF Receivable", as defined in Section 6585(i) of the California Government Code (the "VLF Receivable"), namely, the right to payment of moneys due or to become due to the Seller out of funds payable in connection with vehicle license fees to a local agency pursuant to Section 10754.11 of the California Revenue and Taxation Code;

WHEREAS, the California Statewide Communities Development Authority, a joint exercise of powers authority organized and existing under the laws of the State (the "Authority"), has been authorized pursuant to Section 6588(w) of the California Government Code to purchase the VLF Receivable;

WHEREAS, the Authority desires to purchase the VLF Receivable and the Seller desires to sell the VLF Receivable pursuant to a purchase and sale agreement by and between the Seller and the Authority in the form presented to this City Council (the "Sale Agreement") for the purposes set forth herein;

WHEREAS, in order to finance the purchase price of the VLF Receivable from the Seller and the purchase price of other VLF Receivables from other local agencies, the Authority will issue its taxable and tax-exempt notes (the “Notes”) pursuant to Section 6590 of the California Government Code and an Indenture (the “Indenture”), by and between the Authority and Wells Fargo Bank, National Association, as trustee (the “Trustee”), which Notes will be payable solely from the proceeds of the VLF Receivable and such other VLF Receivables;

WHEREAS, the Seller acknowledges that the Authority will grant a security interest in the VLF Receivable to the Trustee and any credit enhancer to secure payment of the Notes; and

WHEREAS, a portion of the proceeds of the Notes will be used by the Authority to, among other things, pay the purchase price of the VLF Receivable;

WHEREAS, the Seller will use the proceeds received from the sale of the VLF Receivable for any lawful purpose as permitted under the applicable laws of the State;

NOW THEREFORE, the City Council of the City of Modesto hereby resolves as follows: Section 1. All of the recitals set forth above are true and correct, and this City Council hereby so finds and determines.

Section 2. The Seller hereby authorizes the sale of the VLF Receivable to the Authority for a price no less than the Minimum Purchase Price set forth in **Appendix A**. The form of Sale Agreement presented to the City Council is hereby approved. An Authorized Officer (as set forth in Appendix A) is hereby authorized and directed to execute and deliver the Sale Agreement on behalf of the Seller, which shall be in substantially the form presented to this meeting, with such changes therein, deletions

therefrom and additions thereto, as such Authorized Officer shall approve, which approval shall be conclusively evidenced by the execution and delivery of the Sale Agreement.

Section 3. Any Authorized Officer is hereby authorized and directed to send, or to cause to be sent, an irrevocable written instruction to the State Controller notifying the State of the sale of the VLF Receivable and instructing the disbursement pursuant to Section 6588.5(c) of California Government Code of the VLF Receivable to the Trustee, on behalf of the Authority.

Section 4. The Authorized Officers and such other Seller officers, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, including but not limited to one or more tax certificates, if required, appropriate escrow instructions relating to the delivery into escrow of executed documents prior to the closing of the Notes, and such other documents mentioned in the Sale Agreement or the Indenture, which any of them may deem necessary or desirable in order to implement the Sale Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale of the VLF Receivable or the issuance of the Notes, including without limitation any of the foregoing that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by an

Authorized Officer without further authorization by this City Council, and each Authorized Officer is hereby authorized and directed to give any such consent, approval, notice, order or request, to execute any necessary or appropriate documents or amendments, and to take any such action that such Authorized Officer may deem necessary or desirable to further the purposes of this Resolution.

Section 6. The City Council acknowledges that, upon execution and delivery of the Sale Agreement, the Seller is contractually obligated to sell the VLF Receivable to the Authority pursuant to the Sale Agreement and the Seller shall not have any option to revoke its approval of the Sale Agreement or to determine not to perform its obligations thereunder.

Section 7. This Resolution shall take effect from and after its adoption and approval.

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 February, 2005, 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, Jackman, Keating, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**APPENDIX A**  
**CITY OF MODESTO**

**Minimum Purchase Price:**

An amount equal to or greater than \$2,930,217.88 (the "Minimum Purchase Price").

**Authorized Officers:**

Acting City Manager

Assistant City Manager

Any designee of any of them, as appointed in a written certificate of such Authorized Officer delivered to the Trustee.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-096**

**A RESOLUTION APPOINTING KRISTIN OLSEN 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 January 24, 2005, the Planning Commission recommended KRISTIN OLSEN, 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. KRISTIN OLSEN, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2006.

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 22<sup>nd</sup> day of February, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-097**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005  
OPERATING BUDGET TO INCREASE THE COMMUNITY &  
ECONOMIC DEVELOPMENT DEPARTMENT REVENUE  
BUDGET BY \$100,000 (010-140-1430-4909) AND TO  
APPROPRIATE \$100,000 (010-140-1430-0235) FOR CONTRACT  
PROFESSIONAL SERVICES**

WHEREAS, the City of Modesto increased development user fees, including the introduction of a new “time and materials” based fee, effective October, 2003, and

WHEREAS, revenue projections for these projects were not included in the FY 2004/2005 budget, and

WHEREAS, there are currently six (6) major time and materials projects in the Planning Division, and

WHEREAS, these projects have generated over \$70,000 in revenue through November 30, 2004, and it is estimated they will generate approximately \$100,000 more through June 30, 2005, and

WHEREAS, the workload increase generated by these projects has impacted the Planning Division work program, resulting in delays to individual projects, and

WHEREAS, interim contract staff support is needed on specific plan and other time and materials projects, and

WHEREAS, the unanticipated revenue can be used to offset the expense of hiring contract staff support, and

WHEREAS, the Finance Committee approved this recommendation on January 24, 2004,



NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2004-2005 operating budget to increase revenues by \$100,000 (010-140-1430-4909), and to appropriate \$100,000 (010-140-1430-0235) 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 22<sup>nd</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-098**

**A RESOLUTION AUTHORIZING THE ACTING CITY MANAGER TO  
EXECUTE AN AGREEMENT FOR THE PAYMENT OF CAPITAL FACILITY  
FEES IN TWO INSTALLMENTS FOR JOSE CASTELLANOS**

WHEREAS, Jose Castellanos has purchased a residential lot at 3300 Alonzo Court within the City of Modesto, and

WHEREAS, at the time of the purchase, said lot was vested in the 1998 Capital Facility Fee program ("CFF"), and

WHEREAS, Jose Castellanos asked for and received estimates for his fees which indicated the amounts for the 1998 CFF Program of \$7,061, and

WHEREAS, in March 2004, said lot's vesting status expired causing the fees to increase to the 2003 CFF program, an increase of \$8,156, and

WHEREAS, Jose Castellanos has received approval for his loan, and is requesting that he be permitted to pay the balance of his fees at the time he receives his final occupancy permit,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Jose Castellanos be granted an exception and be allowed to pay fees in the amount of \$7,061 when he is issued his building permit, and the balance of \$8,156 be paid when he receives his occupancy permit for said lot on Alonzo Court.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-099**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR ELECTRIC MOTOR REWINDING/REBUILDING SERVICES TO  
INDUSTRIAL ELECTRICAL OF MODESTO, CA FOR AN INITIAL TWO-  
YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSIONS  
FOR A TOTAL ESTIMATED ANNUAL COST OF \$50,000.00**

WHEREAS, the Public Works Department-Electrical Division has requested the purchase of electric motor rewinding/rebuilding services for an initial two-year period, with three (3) one-year contract extensions, and

WHEREAS, electric motor rewinding/rebuilding services are required because motors experience wear and failure in their normal operations, suffer bearing failure, electrical insulation failure and degradation, winding breaks or shorting, and physical damage, and

WHEREAS, electric motors are used to pump fresh water from wells or tanks, to pump sewage and storm water through the collection systems, and to pump wastewater through the Sutter and Jennings treatment facility's, and

WHEREAS, electric motors are also used to move air through HVAC systems, operate conveyors, open and close roll up doors and gates, and in other numerous City applications, and

WHEREAS, staff uses rewinding/rebuilding services when these services are less than 60% of the motor replacement cost, and repairing/rebuilding a motor is often faster than replacement on large specialized motors, and

WHEREAS, motors are used in many processes including those processes needed to comply with state and federal permits and regulations such as the wastewater facility's NPDES permits and water systems that meet Department of Health requirements, and

WHEREAS, other regulations are safety related such as ventilation to reduce heat or dangerous atmospheric situations in restricted areas such as pumping station dry wells, and others are convenience or security related to gate or door openers and elevators, and

WHEREAS, the price of copper used in the manufacturing of motors is very volatile and can cause fluctuations in rewinding costs, and

WHEREAS, one major advantage for an electric motor rewind/rebuild contract is a stable, known price over a period of time, and

WHEREAS, City staff is unable to perform this function due to lack of facilities and the fact that it is a very specialized, technical trade, and

WHEREAS, funding for electric motor rewinding/rebuilding is budgeted in account numbers: 6210-480-5212, 6280-480-5312-0223, 6210-480-5213-0223, 6210-480-5214-0223, and 6100-480-5013-0223, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed \$50,000.00 for material, equipment, or contractual services to be formally bid, and

WHEREAS, by soliciting formal bids for the purchase of electric motor rewinding/rebuilding services for an initial two-year period, with three (3) one-year contract extension options for an estimated annual cost of \$50,000.00, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures, and

WHEREAS, Resolution No. 2004-626 authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for electric motor rewinding/rebuilding services, and

WHEREAS, twelve (12) vendors were solicited and two (2) chose to respond to the RFB, and

WHEREAS, based on being the lowest responsive bidder, City staff is recommending award of bid and contract to Industrial Electrical Co. of Modesto, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes award of bid and contract for electric motor rewinding/rebuilding services to Industrial Electrical Co., of Modesto, CA. for an initial two-year period, with three (3) one-year contract extension options, for an estimated annual cost of \$50,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-100**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 22nd day of February 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney





## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: Gas Tax Fund

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<u>FROM</u> 05-0700-480-4612-0360	4612C	\$771,335	(\$26,698)	\$744,637	Streets Mtc
<u>TO</u> MY-2300-480-A019-6041	A019	\$149,000	\$26,698	\$175,698	Blu Gum Rd Improvements

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u> MY-0700-700-A019-7230	A019G	\$149,000	\$26,698	\$175,698	Transfer to Capital Grants
<u>TO</u> MY-2300-700-A019-9070		\$149,000	\$26,698	\$175,698	Transfer to Capital Grants

**COMMENTS/JUSTIFICATION**

This adjustment is to increase the budget to accomidate the additional work the Public Works crews had to put into this road improvement for the drainage. The funds will be taken from Streets Mtc repair and maintenance account and transferred to this CIP

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)		

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: Gas Tax

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<b>FROM</b>					
05-0700-800-8000-8003	0700R	(\$340,080)	(\$180,000)	(\$520,080)	Gas Tax Contingency
<b>TO</b>					
05-2300-800-8000-8003	2300R	(\$148,420)	\$180,000	\$31,580	Capital Grants

**TRANSFERS BETWEEN FUNDS**

<b>FROM</b>					
MY-0700-700-Q205-7230	Q205G	\$53,332	\$180,000	\$233,332	Transfer to Capital Grants
<b>TO</b>					
MY-2300-700-Q205-9070		\$53,332	\$180,000	\$233,332	Transfer to Capital Grants

**COMMENTS/JUSTIFICATION**

Q205 Intersection Upgrades, is funded by the Gas Tax fund. This budget adjustment is to increase the transfer from the Gas Tax to the Capital Grants Fund to cover the expenditure side of the budget. This is part of the CIP clean-up phase to identify adequate revenues to cover expenses.

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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: Gas Tax

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<b>FROM</b>					
05-2300-800-8000-8003	2300R		(\$108,542)	(\$108,542)	Capital Grant Contingency
05-1410-800-8000-8003	1410R		(\$108,542)	(\$108,542)	CFF Streets Contingency
<b>TO</b>					
05-0700-800-8000-8003	0700R		\$108,542	\$108,542	Gas Tax Contingency
05-2300-800-8000-8003	2300R		\$108,542	\$108,542	Capital Grant Contingency

**TRANSFERS BETWEEN FUNDS**

<b>FROM</b>					
MY-0700-700-N060-7230	N060G	\$127,615	(\$127,615)		Transfer to Capital Grants
MY-1410-700-N060-7230	N060GG	\$19,073	\$108,542	\$127,615	Transfer to Capital Grants
<b>TO</b>					
MY-2300-700-N060-9070		\$127,615	(\$127,615)		Transfer to Capital Grants
MY-2300-700-N060-9141		\$19,073	\$108,542	\$127,615	Transfer to Capital Grants

**COMMENTS/JUSTIFICATION**

N060 The Scenic Bodem Rt Turn. This adjustment is to change funding sources currently the match for this Federal Grant is Gas Tax. The match for this project should be CFF Streets. This monthly adjustment has been seen by the CFF Administrator and she concurs that the funding source should be CFF not Gas Tax

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. 2005-101**

**A RESOLUTION APPROVING A SECOND  
AMENDMENT TO AN AGREEMENT FOR  
PROFESSIONAL SERVICES WITH INDEPENDENT  
SOLUTIONS, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE SAID AMENDMENT**

WHEREAS, on February 23<sup>rd</sup>, 2004, the City of Modesto entered into an Agreement for Professional Services with Independent Solutions, for a not-to-exceed amount of \$48,000, and

WHEREAS, on October 12, 2004 the City of Modesto entered into and amendment to Agreement with Independent Solutions, for an additional contract amount of \$56,000, and a total contract amount not-to-exceed \$104,000, and

WHEREAS, the City has determined that additional services will be needed after the expiration of the first Amendment to Agreement, and

WHEREAS, the City desires to enter into a Second Amendment to Agreement with Independent Solutions, for an additional contract amount of \$50,000, and a total contract amount not-to-exceed \$154,000, and

WHEREAS, all contracts over the amount of \$50,000, are required to be approved by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second Amendment to Agreement for Professional Services with Independent Solutions for an additional contract amount of \$50,000 and a total contract amount not-to-exceed \$154,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-102**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE  
STANISLAUS COMMUNITY FOUNDATION (SCF) TO ACT AS THE  
TUOLUMNE RIVER REGIONAL PARK (TRRP) JOINT POWERS  
AGENCY'S FISCAL AGENT FOR ACCEPTANCE OF ENDOWMENTS  
AND GIFTS FOR OPEN SPACE DEVELOPMENT AND PROGRAM  
ACTIVITIES AT THE TUOLUMNE RIVER REGIONAL PARK AND  
AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE  
AGREEMENT.**

WHEREAS, on February 25, 2003, the City Council, by Resolution No. 2003-95, accepted the Parks, Recreation and Neighborhoods Department's first Fund Development Report, and

WHEREAS, as part of City Council Resolution No. 2003-95, staff was directed to negotiate an agreement with the Stanislaus Community Foundation to allow the Parks, Recreation and Neighborhoods Department to be eligible for grants for which government agencies are not eligible, and

WHEREAS, the Stanislaus Community Foundation is a 501(c)(3) nonprofit organization governed by a board of private citizens chosen to represent the public interest, and

WHEREAS, the Stanislaus Community Foundation would be a vehicle for acceptance of endowments and gifts for the Tuolumne River Regional Park open space development and program activities, and

WHEREAS, the Tuolumne River Regional Park Joint Powers Agreement authorizes the City of Modesto to perform certain administrative functions and within these parameters the Commission can specify and add to the functions that they believe need to be performed, and



WHEREAS, the Stanislaus Community Foundation would provide a means to invest and manage gifts for park and recreation purposes, and

WHEREAS, the Tuolumne River Regional Park Commission met on December 20, 2004, and recommended 1) approval of an Agreement with the Stanislaus Community Foundation (SCF) to act as the Tuolumne River Regional Park (TRRP) Joint Powers Agency's fiscal agent for acceptance of endowments and gifts for open space development and program activities at the Tuolumne River Regional Park, and 2) appointing the Tuolumne River Regional Park (TRRP) Citizens Advisory Committee as the Tuolumne River Regional Park Advisory Board to the Stanislaus Community Foundation for the purpose of recommending how to disburse funds held by the SCF on behalf of TRRP,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby approves an Agreement with the Stanislaus Community Foundation (SCF) to act as the Tuolumne River Regional Park (TRRP) Joint Powers Agency's fiscal agent for acceptance of endowments and gifts for open space development and program activities at the Tuolumne River Regional Park.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Acting 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 22nd day of February 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-103**

**A RESOLUTION APPOINTING THE TUOLUMNE RIVER  
REGIONAL PARK (TRRP) CITIZENS ADVISORY COMMITTEE  
AS THE TUOLUMNE RIVER REGIONAL PARK ADVISORY  
BOARD TO THE STANISLAUS COMMUNITY FOUNDATION  
(SCF) FOR THE PURPOSE OF RECOMMENDING HOW TO  
DISBURSE FUNDS HELD BY THE SCF ON BEHALF OF TRRP**

WHEREAS, on February 25, 2003, the City Council, by Resolution No. 2003-95, accepted the Parks, Recreation and Neighborhoods Department's first Fund Development Report, and

WHEREAS, as part of City Council Resolution No. 2003-95, staff was directed to negotiate an agreement with the Stanislaus Community Foundation to allow the Parks, Recreation and Neighborhoods Department to be eligible for grants for which government agencies are not eligible, and

WHEREAS, the Stanislaus Community Foundation (SCF) is a 501(c)(3) nonprofit organization governed by a board of private citizens chosen to represent the public interest, and

WHEREAS, the Stanislaus Community Foundation would be a vehicle for acceptance of endowments and gifts for the Tuolumne River Regional Park open space development and program activities, and.

WHEREAS, the Tuolumne River Regional Park Joint Powers Agreement authorizes the City of Modesto to perform certain administrative functions and within these parameters the Commission can specify and add to the functions that they believe need to be performed, and

WHEREAS, an advisory board to the SCF would provide guidance and direction for the disbursement, and

WHEREAS, the Tuolumne River Regional Park Commission met on December 20, 2004, and recommended 1) approval of an Agreement with the Stanislaus Community Foundation (SCF) to act as the Tuolumne River Regional Park (TRRP) Joint Powers Agency's fiscal agent for acceptance of endowments and gifts for open space development and program activities at the Tuolumne River Regional Park, and 2) appointing the Tuolumne River Regional Park (TRRP) Citizens Advisory Committee as the Tuolumne River Regional Park Advisory Board to the Stanislaus Community Foundation for the purpose of recommending how to disburse funds held by the SCF on behalf of TRRP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby appoints the Tuolumne River Regional Park (TRRP) Citizens Advisory Committee as the Tuolumne River Regional Park Advisory Board to the Stanislaus Community Foundation for the purpose of recommending how to disburse funds held by the Stanislaus Community Foundation on behalf of TRRP.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-104**

**A RESOLUTION APPROVING AN AGREEMENT WITH  
HABITAT FOR HUMANITY, STANISLAUS, FOR THE  
ALLOCATION OF \$68,791 FROM FISCAL YEAR 2004-2005  
HOME COMMUNITY HOUSING DEVELOPMENT  
ORGANIZATION (CHDO) OPERATING FUNDS AND  
AUTHORIZING THE ACTING CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, in Fiscal Year 2004-2005, HUD allocated \$1,375,817 of HOME entitlement funds to the City of Modesto, and

WHEREAS, each year 5% of the HOME entitlement funds can be allocated to provide operating funds to non-profit organizations that are CHDO certified and provide affordable housing within the participating jurisdiction, and

WHEREAS, the City of Modesto budgeted \$68,791 in CHDO Operating funds for FY 2004-2005, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the Modesto City Council authorized staff to send a letter to the three active and approved Community Housing Development Organizations (CHDOs) and invite them to submit a letter of interest to apply for these funds, and

WHEREAS, on October 28, 2004, a request for "Letters of Interest" was sent, inviting certified Community Housing Development Organizations (CHDOs) to submit a letter of interest by November 19, 2004, and Habitat for Humanity, Stanislaus, was the only CHDO who submitted a "Letter of Interest," and

WHEREAS, according to the "Letter of Interest," Habitat for Humanity will use the CHDO Operating Fund to fund the following eligible operational costs:

organizational support, housing education, administrative expenses, and operating expenses, and

WHEREAS, at the December 17, 2004, meeting, the Citizens Housing and Community Development Committee (CH&CDC) recommended the allocation of \$68,791 in CHDO Operating Fund to Habitat for Humanity, Stanislaus, and

WHEREAS, on January 4, 2005, by Resolution 2005-15, the City Council approved the allocation of \$68,791 from FY 2004-2005 HOME CHDO Operating Funds to Habitat for Humanity, Stanislaus,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement with Habitat for Humanity, Stanislaus, for the allocation of \$68,791 from FY 2004-2005 HOME Community Housing Development Organization (CHDO) Operating Fund.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Acting 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 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-105**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO  
THE GENERAL FUND - POLICE INVESTIGATIVE SERVICES AND POLICE  
OPERATIONS FOR THE PURCHASE OF POLICE EQUIPMENT**

WHEREAS, there is currently a need for investigative undercover equipment in three Police Department Units and for spike strips for all patrol vehicles, and

WHEREAS, the Police Department is in need of this equipment to provide the most effective and efficient investigative work possible, and

WHEREAS, current surveillance equipment for the Gang Unit and MNET is twenty years old and needs replacement, and

WHEREAS, the department also has a need for spike strips to terminate vehicle pursuits, and

WHEREAS, the investigative undercover equipment needed includes binoculars, cameras and video equipment, transmitters and receivers, and

WHEREAS, the Asset Forfeiture Fund (Fund 8600 / Balance Sheet 3410), with revenues from the proceeds of drug convictions, is an appropriate source for funding the acquisition of this equipment and has sufficient revenues to make the purchases, and

WHEREAS, there is no other known source of revenue for these purchases, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of January 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 0100-190-1941-0356 \$26,200 Police Investigative Services

0100-190-1961-0356 \$18,000 and Field Operations

Revenue:

From: 0100-190-1941-7202 \$26,200 Seized Forfeitures

0100-190-1961-7202 \$18,000 Seized Forfeitures

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 22<sup>nd</sup> day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-106**

**A RESOLUTION AMENDING THE FISCAL  
YEAR 2004/05 BUDGET TO TRANSFER FUNDS  
FROM THE TRAFFIC SAFETY FUND TO  
THE GENERAL FUND – TRAFFIC FOR THE  
PURCHASE OF TRAFFIC-RELATED EQUIPMENT**

WHEREAS, the City of Modesto Police Department Traffic Unit has several unmet equipment and supply needs, acquisition of which will enable the Unit to provide the most effective traffic enforcement possible, and

WHEREAS, costs for said equipment and services are \$196,200, and

WHEREAS, the Traffic Safety Fund has monies available for these purchases,  
and

WHEREAS, the Safety and Communities Committee unanimously recommended purchase of this equipment and services at its meeting of January 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate To:

0600-190-1906-0209	\$7,500	Training
0600-190-1906-0255	15,000	Service Credits
0600-190-1906-0351	1,200	Photo Equipment
0600-190-1906-0307	65,600	Vehicle Equipment
0600-190-1906-0308	5,500	Field Supplies
0600-190-1906-0356	5,400	Police Equipment
0600-190-1906-5500	96,000	Vehicles

Revenue From:

0600-800-8000-8003	\$196,200	Reserves
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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 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-107**

**A RESOLUTION ALLOCATING A NEW POLICE LIEUTENANT POSITION  
TO THE MODESTO POLICE DEPARTMENT**

WHEREAS, the City of Modesto and the County of Stanislaus have a Joint Exercise of Powers Agreement (JPA) for sharing the cost for dispatch services between the City, County and other participating agencies, and

WHEREAS, the Advisory Board of the JPA desires to fill its Deputy Director position with a Modesto Police Lieutenant, to oversee operations of the center, and

WHEREAS, the Stanislaus Regional 911 Communications Center JPA will reimburse the City of Modesto for the cost of the Police Lieutenant, estimated at \$145,000 annually, and

WHEREAS, both the Finance Committee, at its meeting of January 24, 2005, and the Safety and Communities Committee, at its meeting of January 31, 2005, unanimously supported this action, and

WHEREAS, the Stanislaus Regional 911 Communications Center JPA will reimburse the City of Modesto for the salary and benefit costs associated with this position on a quarterly basis,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the Position Allocation for the Modesto Police Department be increased by one Police Lieutenant.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary allocation increase.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-108**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
REALIZE REVENUE AND EXPEND FUNDS FOR A MODESTO  
POLICE LIEUTENANT TO SERVE AS THE STANISLAUS REGIONAL 911  
COMMUNICATIONS CENTER DEPUTY DIRECTOR OF OPERATIONS**

WHEREAS, the City of Modesto and the County of Stanislaus have a Joint Exercise of Powers Agreement (JPA) for sharing the cost for dispatch services between the City, County and other participating agencies, and

WHEREAS, the Advisory Board of the JPA desires to fill its Deputy Director position with a Modesto Police Lieutenant, to oversee operations of the center, and

WHEREAS, the Stanislaus Regional 911 Communications Center JPA will reimburse the City of Modesto for the cost of the Police Lieutenant, estimated at \$145,000 annually,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 0100-190-1902-0110 \$60,417 Salaries and Benefits

Revenue:

From: 0100-190-1902-4025 \$60,417 Contract Police 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 22<sup>nd</sup> day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

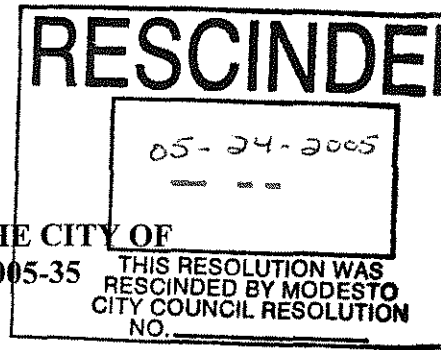
APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-109

A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF  
MODESTO AND RESCINDING RESOLUTION NO. 2005-35



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 identified the east side of 16<sup>th</sup> Street between H and I  
Streets as a location to install angle parking 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 the east side of 16<sup>th</sup>  
Street between H and I Streets without creating a hazard and without impeding traffic  
flow, and

WHEREAS, the Economic Development Committee considered the additional  
angle parking on 16<sup>th</sup> Street at its February 7, 2005, meeting and supported staff's  
recommendation,

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)
- 16<sup>th</sup> Street between H Street and I Street (east side) (diagonal)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2005-35 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-110

RESOLUTION ACCEPTING THE WORK BY TCB INDUSTRIAL, INC., FOR  
THE "ELM STREET BUILDINGS" PROJECT AS COMPLETE, AUTHORIZING  
THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND  
AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$299,343 PER  
THE CONTRACT. TOTAL PROJECT COST IS \$384,478

WHEREAS, a report has been filed by the Public Works Director that the project titled "Elm Street Buildings" has been completed by TCB Industrial, Inc., in accordance with the contract agreement dated March 2, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Elm Street Buildings" project be accepted from said contractor, by TCB Industrial, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$299,343, 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 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-111

RESOLUTION ACCEPTING THE WORK BY GRAHAM CONTRACTORS, INC., FOR THE "2004 SLURRY AND CAPE SEALS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$648,231.96 PER THE CONTRACT. TOTAL PROJECT COST IS \$751,826.42

WHEREAS, a report has been filed by the Public Works Director that the project titled "2004 Slurry and Cape Seals" has been completed by Graham Contractors, Inc., in accordance with the contract agreement dated August 10, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "2004 Slurry and Cape Seals" project be accepted from said contractor, by Graham Contractors, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$648,231.96, 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 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-112**

**RESOLUTION ACCEPTING THE WORK BY GROVER LANDSCAPE SERVICES, INC., FOR THE “COFFEE CLARATINA NEIGHBORHOOD PARK AND DUAL USE BASIN” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$977,213.72 PER THE CONTRACT. TOTAL PROJECT COST IS \$1,192,149.70**

WHEREAS, a report has been filed by the Public Works Director that the project titled “Coffee Claratina Neighborhood Park and Dual Use Basin” has been completed by Grover Landscape Services, Inc., in accordance with the contract agreement dated May 27, 2004.

NOW, THEREFORE, BE IT RESOLVED that the “Coffee Claratina Neighborhood Park and Dual Use Basin” project be accepted 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 \$977,213.72 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 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-113**

**A RESOLUTION GRANTING TWO UTILITY EASEMENTS TO MODESTO  
IRRIGATION DISTRICT FOR THE PROPOSED BUS MAINTENANCE  
FACILITY**

WHEREAS, Modesto Irrigation District (MID) has reviewed the new Bus Maintenance Facility plans for future service requirements, and

WHEREAS, MID will remove all overhead lines and poles from the future Bus Maintenance Facility site, and

WHEREAS, MID requires easements to construct and operate within the newly designated areas for maintenance of underground conduits and to support the utility pole re-alignment by placement of an anchor, and

WHEREAS, said utility easements are more fully described as set forth in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the granting of two public utility easements to MID for relocation of utility assets for the proposed Bus Maintenance Facility.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## LEGAL DESCRIPTION

**PARCEL No. 1:** 10.00 FEET MID UNDERGROUND HIGH VOLTAGE EASEMENT  
**PARCEL No. 2:** 14.00 FEET BY 24.00 FEET MID SWITCHGEAR EASEMENT

**PARCEL No. 1:**

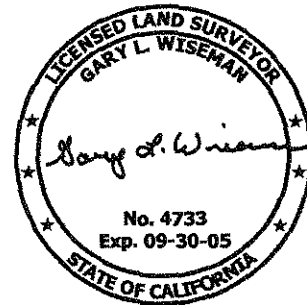
A strip of land 10.00 feet wide, in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, the centerline of which is described as follows:

Commencing at the 2 inch iron pipe at the intersection of Kansas Avenue and Franklin Street, marking the west quarter corner of said Section 29, having grid coordinates of (X) = 6,413,449.22, (Y) = 2,058,054.07, in Zone 3 of the California Coordinate System of 1983 (CCS83), Epoch Date 1991.35; thence South 18° 37' 57" East (bearings based on the grid meridian of said Zone 3) a distance of 940.25 feet (distances are ground) to the easterly right-of-way line of 120.00 feet wide Modesto Irrigation District (MID) Lateral Number 4 and the POINT OF BEGINNING of this description; thence South 88° 34' 43" East parallel with and 40.00 feet north of the north faces of the four existing City of Modesto Corporation Yard Buildings, 521.30 feet to the west right-of-way line of 80.00 feet wide Jefferson Street.

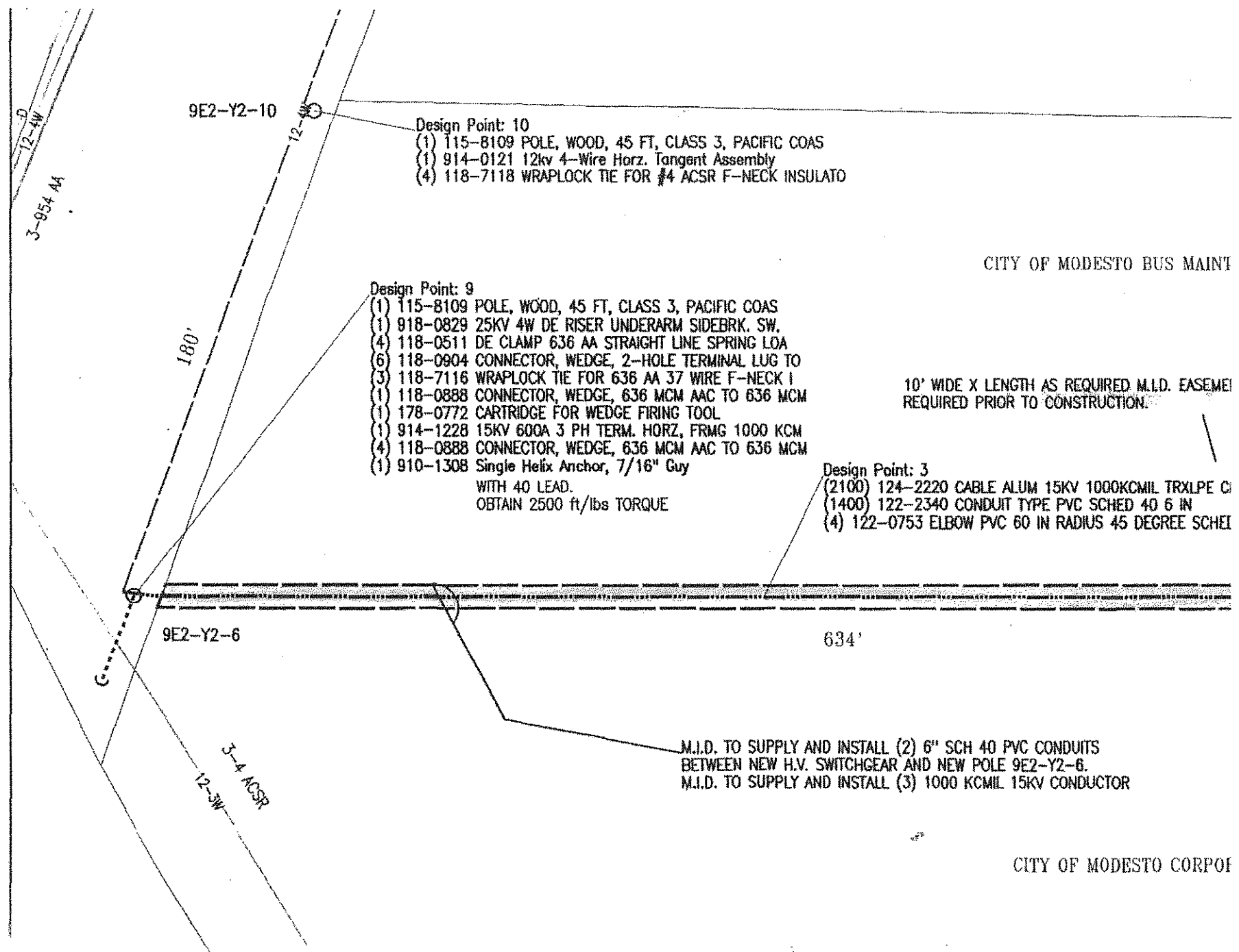
The side lines of said 10.00 feet wide easement to be extended or shortened to meet the easterly right-of-way line of said MID Lateral Number 4 and the west right-of-way line of said Jefferson Street.

**PARCEL No. 2:**

BEGINNING at the easterly terminus of the centerline of the above described Parcel No. 1, said point being on the west right-of-way line of 80.00 feet wide Jefferson Street; thence on said west line, North 0° 31' 51" West 12.01 feet; thence parallel with and 12.00 feet north of the centerline of the above described Parcel No. 1, North 88° 34' 43" West 14.01 feet; thence parallel with and 24.00 feet west of the west right-of-way line of said Jefferson Street, South 0° 31' 51" East 24.01 feet; thence parallel with and 12.00 feet south of the centerline of the above described Parcel No. 1, South 88° 34' 43" East 14.01 feet to the aforementioned west right-of-way line of Jefferson Street; thence on said right-of-way line North 0° 31' 51" West 12.01 feet to the point of beginning.



Date: Feb. 9, 2005



9E2-Y2-10

- Design Point: 10
- (1) 115-8109 POLE, WOOD, 45 FT, CLASS 3, PACIFIC COAS
  - (1) 914-0121 12kv 4-Wire Horz. Tangent Assembly
  - (4) 118-7118 WRAPLOCK TIE FOR #4 ACSR F-NECK INSULATO

CITY OF MODESTO BUS MAINT

- Design Point: 9
- (1) 115-8109 POLE, WOOD, 45 FT, CLASS 3, PACIFIC COAS
  - (1) 918-0829 25KV 4W DE RISER UNDERARM SIDEBRK. SW.
  - (4) 118-0511 DE CLAMP 636 AA STRAIGHT LINE SPRING LOA
  - (6) 118-0904 CONNECTOR, WEDGE, 2-HOLE TERMINAL LUG TO
  - (3) 118-7116 WRAPLOCK TIE FOR 636 AA 37 WIRE F-NECK I
  - (1) 118-0888 CONNECTOR, WEDGE, 636 MCM AAC TO 636 MCM
  - (1) 178-0772 CARTRIDGE FOR WEDGE FIRING TOOL
  - (1) 914-1228 15KV 600A 3 PH TERM. HORZ. FRMG 1000 KCM
  - (4) 118-0888 CONNECTOR, WEDGE, 636 MCM AAC TO 636 MCM
  - (1) 910-1308 Single Helix Anchor, 7/16" Guy  
WITH 40 LEAD.  
OBTAIN 2500 ft/lbs TORQUE

10' WIDE X LENGTH AS REQUIRED M.I.D. EASEMEI  
REQUIRED PRIOR TO CONSTRUCTION.

- Design Point: 3
- (2100) 124-2220 CABLE ALUM 15KV 1000KCMIL TRXLPE C
  - (1400) 122-2340 CONDUIT TYPE PVC SCHED 40 6 IN
  - (4) 122-0753 ELBOW PVC 60 IN RADIUS 45 DEGREE SCHEI

9E2-Y2-6

634'

M.I.D. TO SUPPLY AND INSTALL (2) 6" SCH 40 PVC CONDUITS  
BETWEEN NEW H.V. SWITCHGEAR AND NEW POLE 9E2-Y2-6.  
M.I.D. TO SUPPLY AND INSTALL (3) 1000 KCMIL 15KV CONDUCTOR

CITY OF MODESTO CORPOI



JEFFERSON STREET CORPORATION YARD  
APN- 101-003-002

Recording Requested by  
City of Modesto

When Recorded Mail To:  
City of Modesto  
City Clerk  
P. O. Box 642  
Modesto, California 95353

GRANTING PUBLIC UTILITY EASEMENTS

THE CITY OF MODESTO, by Resolution dated February 22, 2005.

GRANTS to Modesto Irrigation District (MID), a municipal corporation, the following utility easement rights on City of Modesto property, in the County of Stanislaus, State of California.

LEGAL DESCRIPTION

**PARCEL No. 1:** 10.00 FEET MID UNDERGROUND HIGH VOLTAGE EASEMENT  
**PARCEL No. 2:** 14.00 FEET BY 24.00 FEET MID SWITCHGEAR EASEMENT

**PARCEL No. 1:**

A strip of land 10.00 feet wide, in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, the centerline of which is described as follows:

Commencing at the 2 inch iron pipe at the intersection of Kansas Avenue and Franklin Street, marking the west quarter corner of said Section 29, having grid coordinates of (X) = 6,413,449.22, (Y) = 2,058,054.07, in Zone 3 of the California Coordinate System of 1983 (CCS83), Epoch Date 1991.35; thence South 18° 37' 57" East (bearings based on the grid meridian of said Zone 3) a distance of 940.25 feet (distances are ground) to the easterly right-of-way line of 120.00 feet wide Modesto Irrigation District (MID) Lateral Number 4 and the POINT OF BEGINNING of this description; thence South 88° 34' 43" East parallel with and 40.00 feet north of the north faces of the four existing City of Modesto Corporation Yard Buildings, 521.30 feet to the west right-of-way line of 80.00 feet wide Jefferson Street. The side lines of said 10.00 feet wide easement to be extended or shortened to meet the easterly right-of-way line of said MID Lateral Number 4 and the west right-of-way line of said Jefferson Street.

**PARCEL No. 2:**

BEGINNING at the easterly terminus of the centerline of the above described Parcel No. 1, said point being on the west right-of-way line of 80.00 feet wide Jefferson Street; thence on said west line, North 0° 31' 51" West 12.01 feet; thence parallel with and 12.00 feet north of the centerline of the above described Parcel No. 1, North 88° 34' 43" West 14.01 feet; thence parallel with and 24.00 feet west of the west right-of-way line of said Jefferson Street, South 0° 31' 51" East 24.01 feet; thence parallel with and 12.00 feet south of the centerline of the above described Parcel No. 1, South 88° 34' 43" East 14.01 feet to the aforementioned west right-of-way line of Jefferson Street; thence on said right-of-way line North 0° 31' 51" West 12.01 feet to the point of beginning.

THE CITY OF MODESTO CLERK

BY \_\_\_\_\_

Dated: \_\_\_\_\_

This is to certify that a joint use resolution has been provided by this action and is hereby accepted by order of the Modesto City Council Resolution No. 05-XXX, dated February 22, 2005.

Date: \_\_\_\_\_

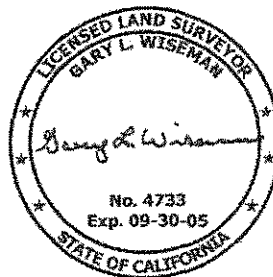
By: \_\_\_\_\_  
RICH ULM, City of Modesto, City Engineer

LEGAL DESCRIPTION  
MID ANCHOR EASEMENT

A strip of land 5.00 feet wide, in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, the centerline of which is described as follows:

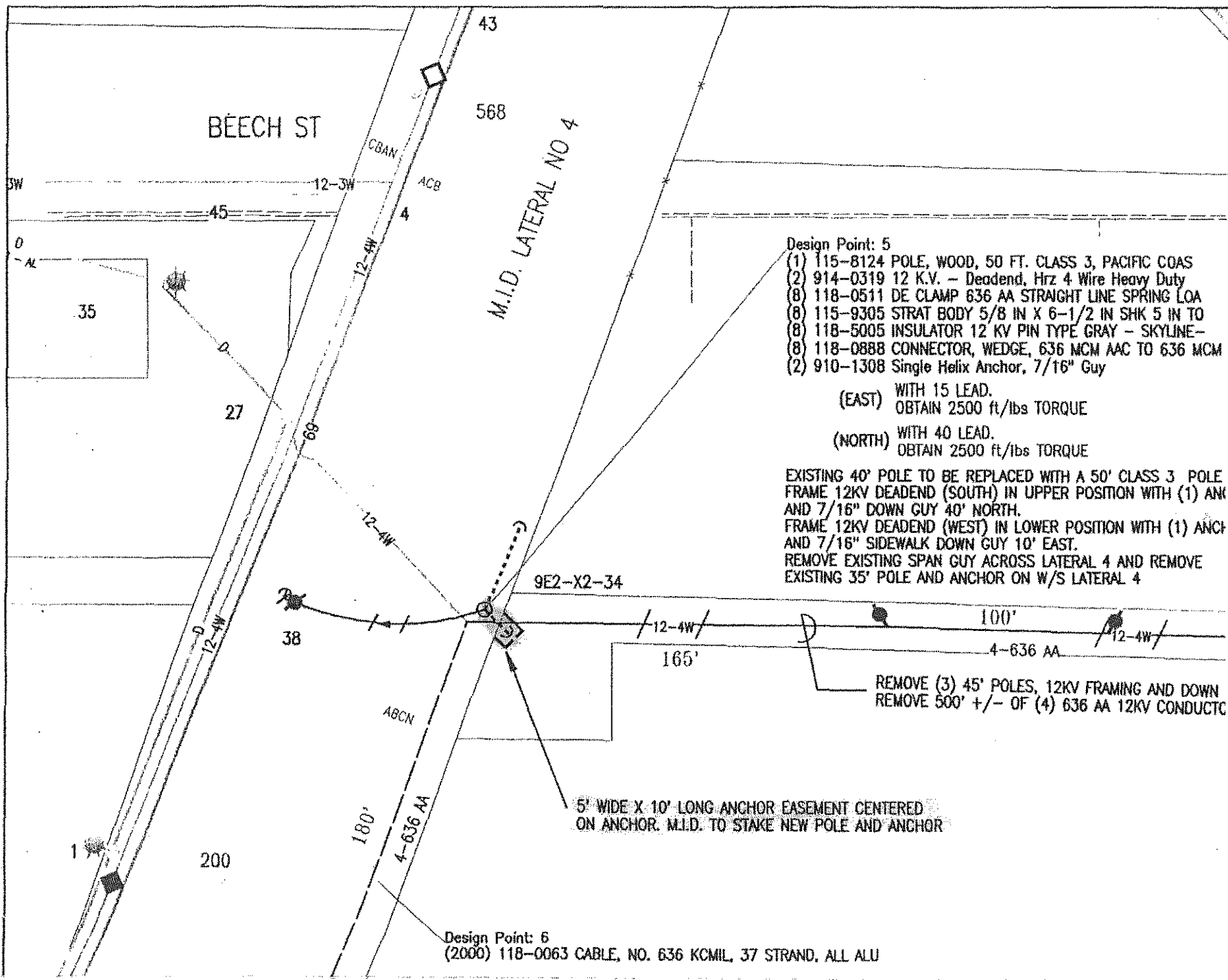
Commencing at the 2 inch iron pipe at the intersection of Kansas Avenue and Franklin Street, marking the west quarter corner of said Section 29, having grid coordinates of (X) = 6,413,449.22, (Y) = 2,058,054.07, in Zone 3 of the California Coordinate System of 1983 (CCS83), Epoch Date 1991.35; thence South 36° 55' 50" East (bearings based on the grid meridian of said Zone 3) a distance of 704.97 feet (distances are ground) to the easterly right-of-way line of 120.00 feet wide Modesto Irrigation District (MID) Lateral Number 4 and the POINT OF BEGINNING of this description; thence South 46° 53' 14" East 11.03 feet.

The side lines of said 5.00 foot easement to be extended or shortened to meet the easterly right-of-way line of said MID Lateral Number 4. The centerline of this easement is the southeasterly extension of a line between two existing MID power poles, the northerly power pole having grid coordinates of (X) = 6,413,787.6, (Y) = 2,057,570.4 and the southerly power pole having grid coordinates of (X) = 6,413,868.0, (Y) = 2,057,495.0.



Date: 12-24-2004

EXHIBIT "B"



**Design Point: 5**

- (1) 115-8124 POLE, WOOD, 50 FT. CLASS 3, PACIFIC COAS
- (2) 914-0319 12 K.V. - Deadend, Hrz 4 Wire Heavy Duty
- (8) 118-0511 DE CLAMP 636 AA STRAIGHT LINE SPRING LOA
- (8) 115-9305 STRAT BODY 5/8 IN X 6-1/2 IN SHK 5 IN TO
- (8) 118-5005 INSULATOR 12 KV PIN TYPE GRAY - SKYLINE-
- (8) 118-0888 CONNECTOR, WEDGE, 636 MCM AAC TO 636 MCM
- (2) 910-1308 Single Helix Anchor, 7/16" Guy

(EAST) WITH 15 LEAD.  
OBTAIN 2500 ft/lbs TORQUE

(NORTH) WITH 40 LEAD.  
OBTAIN 2500 ft/lbs TORQUE

EXISTING 40' POLE TO BE REPLACED WITH A 50' CLASS 3 POLE  
 FRAME 12KV DEADEND (SOUTH) IN UPPER POSITION WITH (1) ANK  
 AND 7/16" DOWN GUY 40' NORTH.  
 FRAME 12KV DEADEND (WEST) IN LOWER POSITION WITH (1) ANCH  
 AND 7/16" SIDEWALK DOWN GUY 10' EAST.  
 REMOVE EXISTING SPAN GUY ACROSS LATERAL 4 AND REMOVE  
 EXISTING 35' POLE AND ANCHOR ON W/S LATERAL 4

REMOVE (3) 45' POLES, 12KV FRAMING AND DOWN  
 REMOVE 500' +/- OF (4) 636 AA 12KV CONDUCTC

5' WIDE X 10' LONG ANCHOR EASEMENT CENTERED  
 ON ANCHOR. M.I.D. TO STAKE NEW POLE AND ANCHOR

**Design Point: 6**  
 (2000) 118-0063 CABLE, NO. 636 KCMIL, 37 STRAND, ALL ALU



JEFFERSON STREET CORPORATION YARD  
APN- 101-003-002

Recording Requested by  
City of Modesto

When Recorded Mail To:  
City of Modesto  
City Clerk  
P. O. Box 642  
Modesto, California 95353

GRANTING PUBLIC UTILITY EASEMENTS

THE CITY OF MODESTO, by Resolution dated January 25, 2005,

GRANTS to Modesto Irrigation District (MID), a municipal corporation, the following utility easement rights on City of Modesto property, in the County of Stanislaus, State of California.

LEGAL DESCRIPTION  
MID ANCHOR EASEMENT

A strip of land 5.00 feet wide, in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, the centerline of which is described as follows:

Commencing at the 2 inch iron pipe at the intersection of Kansas Avenue and Franklin Street, marking the west quarter corner of said Section 29, having grid coordinates of (X) = 6,413,449.22, (Y) = 2,058,054.07, in Zone 3 of the California Coordinate System of 1983 (CCS83), Epoch Date 1991.35; thence South 36° 55' 50" East (bearings based on the grid meridian of said Zone 3) a distance of 704.97 feet (distances are ground) to the easterly right-of-way line of 120.00 feet wide Modesto Irrigation District (MID) Lateral Number 4 and the POINT OF BEGINNING of this description; thence South 46° 53' 14" East 11.03 feet.

The side lines of said 5.00 foot easement to be extended or shortened to meet the easterly right-of-way line of said MID Lateral Number 4. The centerline of this easement is the southeasterly extension of a line between two existing MID power poles, the northerly power pole having grid coordinates of (X) = 6,413,787.6, (Y) = 2,057,570.4 and the southerly power pole having grid coordinates of (X) = 6,413,868.0, (Y) = 2,057,495.0.

THE CITY OF MODESTO CLERK

BY \_\_\_\_\_

Dated: \_\_\_\_\_

This is to certify that a joint use resolution has been provided by this action and is hereby accepted by order of the Modesto City Council Resolution No. 05-XXX, dated February 8, 2005.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
RICH ULM,  
City of Modesto, City Engineer

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-114**

**A RESOLUTION APPROVING THE PAYMENT OF \$114,310.00 TO MODESTO  
IRRIGATION DISTRICT FOR THE RELOCATION OF EXISTING  
ELECTRICAL FACILITIES LOCATED AT THE PROPOSED BUS  
MAINTENANCE FACILITY**

WHEREAS, Modesto Irrigation District (MID) has reviewed the new Bus Maintenance Facility plans for future service requirements, and

WHEREAS, MID will remove all overhead lines and poles from the future Bus Maintenance Facility site, and relocate them underground, and

WHEREAS, the payment of \$114,310 for the relocation of existing facilities is required to be issued to MID prior to their commencement of work, and

WHEREAS, relocation of utilities is paid for by federal & local funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves payment to MID in the amount of \$114,310 for relocation of utility facilities located at the proposed Bus Maintenance Facility.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-115**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$272,288.50 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "ENCINA AVENUE ROUNDABOUT IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED COST OF THIS PROJECT IS \$388,000, WHICH INCLUDES CONSTRUCTION CONTINGENCY, CONSTRUCTION ADMINISTRATION AND ENGINEERING DESIGN**

WHEREAS, the bids received for "Encina Avenue Roundabout Improvements" were opened at 11:00 a.m. on January 25, 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 \$272,288.50 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of George Reed, Inc., in the amount of \$272,288.50, and hereby awards George Reed, Inc., the contract titled "Encina Avenue Roundabout Improvements."

BE IT FURTHER RESOLVED that the Acting 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 22nd day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-116**

**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. 6)**

WHEREAS, this Council did, on January 4, 2005, adopt its Resolution No. 2005-11 (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 is higher in Tax Zone #2, and

WHEREAS, the Annexed Territory will be subject to the 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. 6 of Community Facilities District No. 2004-1 (“Village One #2) of the City of Modesto, County of Stanislaus, State of California,” was recorded on January 12, 2005, 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 7; and

WHEREAS, at the time and date set for the hearing (February 8, 2005 and continued to February 22, 2005) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, including all interested persons for or against the proposed annexation to the District and the levy of the District special taxes within the Annexed Territory were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex; and

WHEREAS, written protests against the proposed annexation and the levy of the District special taxes within the Annexed Territory have not been filed with the City Clerk by 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory; and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners; and

WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the Annexed Territory to the District, and the levy of the District special taxes within the Annexed Territory were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.



SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be applicable to such election. The ballot measure shall be substantially in the form attached hereto as Exhibit A.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the "Landowner"), the election shall be held on the 14<sup>th</sup> day of December 2004. 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 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 22<sup>nd</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

SAMPLE  
OFFICIAL BALLOT  
BALLOT NO. \_\_\_\_\_

CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)  
ANNEXATION NO. 6  
SPECIAL TAX ELECTION

February 22, 2005

\_\_\_\_% 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, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's 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" (the "Resolution of Formation"), adopted by the City Council of the City of Modesto on April 6, 2004, as clarified by the City Council on December 11, 2004 by Resolution No. 2004-681 and as amended by the City Council on December 11, 2004 by Resolution No. 2004-683 (Resolution Creating Tax Zone #2), which are incorporated herein by this reference, be also levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City's Resolution No. 2005-11, 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. 6)" (the "Resolution of Intention to Annex") adopted by they City Council of the City of Modesto on January 4, 2005, for the purposes set forth in the Resolution of Formation?

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. 2005-117**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MODESTO CANVASSING THE RESULTS OF THE FEBRUARY 22, 2005,  
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. 6)**

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. 2005-11, 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. 6)" adopted on January 4, 2005, 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,

WHEREAS, the owner 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. 2005-11, adopted on January 4, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for February 8, 2005, or as soon after there as practicable, relative to the foregoing;

WHEREAS, on February 22, 2005, 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.

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. 2005-11 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. It is intended that the special taxes set forth in Tax Zone # 2 be levied in the territory annexed.

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 22<sup>nd</sup> day of February 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CERTIFICATE OF CITY CLERK**

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-116, 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. 6) adopted on January 4, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on February 22, 2005, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

**Proposition A.** Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 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" (the "Resolution of Formation"), adopted by the City Council of the City of Modesto on April 6, 2004, as clarified by the City Council on December 11, 2004 by Resolution No. 2004-681 and as amended by the City Council on December 11, 2004 by Resolution No. 2004-683 (Resolution Creating Tax Zone #2), which are incorporated herein by this reference, be also levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City's Resolution No. 2005-11, 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. 6)" (the "Resolution of Intention to Annex") adopted by they City Council of the City of Modesto on January 4, 2005, for the purposes set forth in the Resolution of Formation?

TOTAL VOTES CAST: YES 9 NO 0

Jean Zahr  
Jean Zahr  
City Clerk of the City of Modesto

Dated: Feb 22, 2005



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-118**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM  
AND BUDGET TO ALLOW CONSTRUCTION OF A 6-LANE INTERIM  
FACILITY ON PELANDALE AVENUE BETWEEN DALE ROAD AND  
MCHENRY AVENUE TO START IN FISCAL YEAR 2006**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled, "Pelandale Widening to 4 lanes --Dale to McHenry," and a future project for "Pelandale Widening to 6 lanes - Dale to McHenry" and

WHEREAS, the Finance Committee met on January 24, 2005, and directed staff to investigate costs and funding for a single project to widen Pelandale to 6 lanes from Dale to McHenry and move this project forward, and

WHEREAS, staff estimates the cost to widen Pelandale to 6 lanes, from Dale to McHenry, at \$9,368,000, and recommends increasing the budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Capital Improvement Program and budget to allow construction of a 6-lane interim facility on Pelandale Avenue between Dale Road and McHenry Avenue to start in fiscal year 2006. Staff is directed to include rubberized asphalt as a bid alternate when the project is put out to bid.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of February, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, Mayor Ridenour  
NOES: Councilmembers: O'Bryant  
ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-119**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
(MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE  
OFFICERS ASSOCIATION (MPOA) FOR A TERM OF FEBRUARY 22, 2005  
THROUGH DECEMBER 22, 2008**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Officers Association (MPOA) expired on December 27, 2004, and

WHEREAS, representatives of the CITY and the MPOA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated February 8, 2005, a copy of which report is on file in the office of the City Clerk, the CITY and MPOA have reached agreement on a new MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASES. The current salary schedule effective March 9, 2004 shall remain in full force and effect through July 25, 2005. Across-the-board salary increases shall be effective as follows:

3% effective July 26, 2005  
3% effective July 25, 2006  
4% effective January 9, 2007  
6% effective January 8, 2008

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)				
	<u>7/27/04</u>	<u>7/26/05</u>	<u>7/25/06</u>	<u>7/24/07</u>	<u>7/22/08</u>
Family	\$731.76	\$767	\$812	\$867	\$957 (max)
Single	343.56	400	445	490	535
Opt Out	343.56	350	375	400	425

The MOU provides that the City's contribution for Family coverage effective July 22, 2008 will be based on a market survey, with a maximum increase to \$957/month.

SECTION 3. POST CERTIFICATION PAY. Effective January 2007, Intermediate POST pay of 1%, and Advanced POST pay of 2%. Effective January 2008 these amounts will increase to a total of 2% and 4%, respectively. Effective January 2008, the current Master Officer/Master Detective pay of 5% is to be replaced with Senior Officer/Senior Detective pay of 1%, plus the 4% Advanced POST pay.

SECTION 4. UNIFORM ALLOWANCE. Effective January 2008, uniform allowance increases from \$1100/year to \$1128/year.

SECTION 5. COURT OVERTIME. Effective February 22, 2005, the minimum Court Overtime pay increases from 3 hours to 4 hours on a duty day, with "call-in" pay to the Court Liaison reduced from 2 hours to 1 hour.

SECTION 6. SCHEDULE ADJUSTMENTS. Effective February 22, 2005, officers assigned to Traffic or Street Crimes units shall be subject to schedule adjustments for Graduation/Graffiti weekend (2 days), Fourth of July and for one (1) undesignated day per officer.

SECTION 7. VEHICLES. Effective February 22, 2005, Detectives shall be permitted take home vehicles if they reside within a 30 mile radius of the Modesto City limits (previously 20 miles from the Police Department).

SECTION 8. ADDITIONAL CHANGES. Changes to the MOU also include increased canine care time (taken as release time), the requirement for off-shifting after six (6) consecutive assignments to the same shift, and phasing out the use of negative vacation.

WHEREAS, the Council considered this matter at its meeting of February 22, 2005,

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 Police Officers Association (MPOA), which covers a term from February 22, 2005 through December 22, 2008, 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 22nd day of February, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest : Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-120**

**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR POLICE  
GENERAL CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO  
EFFECTIVE FEBRUARY 22, 2005, AND ADOPTED CONCURRENTLY WITH  
RESOLUTION NO. 2005-119 APPROVING THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE  
MODESTO POLICE OFFICERS ASSOCIATION ADOPTING SALARY AND  
BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR  
POLICE GENERAL CLASSES**

WHEREAS, on February 22, 2005, the City Council adopted Resolution No. 2005-119 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Officers Association adopting salary and benefit changes for Police General Classes including salary schedules, 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 Police General Classes, entitled "City of Modesto Class Range Table General Police Classes Effective February 22, 2005" 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 22nd day of February, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL POLICE CLASSES

Effective February 22, 2005

---

RANGE	TITLE
304	Police Officer Trainee
305	
306	
307	
308	Police Officer
309	
310	
311	
312	Police Detective
314	Computer Forensics Investigator

**EXHIBIT "A"**



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-121**

**A RESOLUTION APPROVING THE ECONOMIC DEVELOPMENT  
COMMITTEE'S (EDC) RECOMMENDATION FOR THE TOP FOUR  
STATE TRANSPORTATION IMPROVEMENT PROJECTS (STIP)**

WHEREAS, Mike Evanhoe, Interim Executive Director of StanCOG, met with City staff to review StanCOG's highway project priorities, and

WHEREAS, StanCOG is of the opinion that the project list is unrealistic due to funding limitations, and

WHEREAS, StanCOG is recommending that member agencies "remove most projects from the active planning list," shelving the projects until the region becomes a "self help" county and focus on key fundable and "buildable" projects, and

WHEREAS, the current top three priorities of StanCOG's Policy Board are:

1. Route 132 Corridor (vicinity Beard Industrial Tract to I-580)
2. Route 219/Kiernan Avenue widening from McHenry Avenue to Route 99 (includes improving the Route 99 interchange)
3. Pelandale/99 Interchange, and

WHEREAS, at its meeting on February 15, 2005, the Economic Development Committee (EDC) and City Staff jointly discussed StanCOG projects and recommended that the following four projects be carried forward:

1. SR99 PM 11.9 Route 99/Whitmore Avenue I/C; at Whitmore Avenue in Ceres, Construct over crossing. Capital Cost 22.3M. Status PS&E/RW (Ceres)
2. SR99 PM 21.5/22.0; In Modesto, Pelandale Interchange Reconstruction. Capital Cost: \$70 million. Status PA&ED\* (Modesto)

3. Route 132 Corridor SR132 PM 17.7/19.7; From Riverside Drive to Frazine/Codoni Road in Empire, widen o 4 lanes. Capital Cost \$7.1 million. Status: PS&E/RW. (Stanislaus County)
4. Route 219/Kiernan Avenue widening from McHenry Avenue to Route 99 (Stanislaus County), and

WHEREAS, the EDC endorsed the idea of City Capital Facilities Fees (CFF) to advance approximately \$1 million to complete the Project Approval and Environmental Document (PA&ED) and Plan Specifications and Estimates (PS&E) work for the Pelandale Interchange project (project #2 in the above list), provided the City would assume the lead role for this work. In doing so, the City can enable this project to be ready for right-of-way purchase and construction when those funds are available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the top four priority projects as recommended by the EDC and City staff set forth herein and more fully described in the February 15, 2005, agenda report from Peter Cowles, Public Works Director, on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council hereby authorizes City staff to review funding mechanisms for said projects and return to Council at a later date to present a funding package.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of February 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-122A**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS (RFB) FOR ONE (1) CHLORINE  
WEIGHING SYSTEM FOR A TOTAL ESTIMATED COST OF \$65,000**

WHEREAS, the Operations and Maintenance Department-Water Quality Control Division has requested the purchase of one (1) chlorine weighing system for the Secondary Wastewater Treatment Facility, located at 7007 Jennings Road, Modesto, CA., and

WHEREAS, currently staff does not have the ability to accurately measure the amount of chlorine available; it is possible the tanks could become empty, therefore, not dispensing the necessary required amount of chlorine into the water, and

WHEREAS, chlorine is used as a disinfectant for treating wastewater released into the San Joaquin River, and

WHEREAS, without adequate chlorine, the water to be discharged may not be disinfected and, therefore, the system meters would respond by initiating an automatic failsafe and abruptly stop river discharge, and

WHEREAS, startup after a failsafe shutdown is complex and as compared to continued river discharge without interruption, inefficient, and

WHEREAS, in order to ensure that tanks do not empty completely, tanks are currently replaced when staff believes there may not still be chlorine available, and

WHEREAS, installing a chlorine weighing system will allow staff to know exactly when tanks need to be replaced, thereby allowing staff to plan ahead for changing the tanks, as well as better utilization of chlorine supplies, and

WHEREAS, in addition, the weighing system would also verify that the amount of product delivered is the same that being invoiced, and

WHEREAS, by soliciting formal bids for one (1) chlorine weighing system, the Finance Department, Purchasing Division will comply with MMC Section 8-3.203 regarding formal bids procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to issue a formal Request for Bids for one (1) chlorine weighing system for a total estimated cost of \$65,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of one (1) chlorine weighing system to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, the Purchasing Division will evaluate the bids and make a recommendation to award which will then be submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of March 2005, 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, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-122**

**A RESOLUTION APPROVING THE FINAL MAP OF THE PAPILLON PARK  
SUBDIVISION IN THE CITY OF MODESTO AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH MARILYN  
SHROYER, TRUSTEE OF THE MARILYN SHROYER TRUST**

WHEREAS, MARILYN SHROYER, Trustee of the Marilyn Shroyer Trust, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 0.98 acres, known as the PAPILLON PARK SUBDIVISION (“SUBDIVISION”), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on March 10, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 17<sup>th</sup> day of May, 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 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 8<sup>th</sup> day of March 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-123**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$2,336,752  
CONTRACT WITH ACME CONSTRUCTION CO., INC., FOR THE PROJECT  
TITLED, "MADDUX YOUTH CENTER RENOVATION AND EXPANSION,"  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the bids received for "Maddux Youth Center Renovation and Expansion" were opened at 11:00 a.m. on February 8, 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 \$2,336,752.00 received from Acme Construction Co., Inc., be accepted as the lowest responsible bid and the contract be awarded to Acme Construction Co., Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Acme Construction Co., Inc., in the amount of \$2,336,752.00, and hereby awards Acme Construction Co., Inc., the contract titled "Maddux Youth Center Renovation and Expansion."

BE IT FURTHER RESOLVED that the Acting 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 March 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-124**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO  
1) REDUCE PER CAPITA REVENUE FROM THE STATE OF CALIFORNIA  
CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND  
COASTAL PROTECTION BOND ACT OF 2002 (PROPOSITION 40) IN THE  
VIRGINIA CORRIDOR ACCOUNT 2300-310-A087 BY \$323,000 AND  
DECREASE EXPENDITURE IN THE VIRGINIA CORRIDOR ACCOUNT 2300-  
310-A087 BY \$323,000, AND 2) INCREASE PROPOSITION 40 PER CAPITA  
REVENUE IN MADDUX YOUTH CENTER IMPROVEMENT ACCOUNT 2300-  
310-M182 BY \$323,000, AND REDUCE THE COMMUNITY DEVELOPMENT  
BLOCK GRANT (CDBG) REVENUE IN THE MADDUX YOUTH CENTER  
IMPROVEMENT ACCOUNT 2300-700-M182 BY \$155,000, AND TO INCREASE  
THE EXPENDITURE BUDGET IN THE MADDUX YOUTH CENTER  
IMPROVEMENT ACCOUNT 2300-310-M182 BY \$167,262 TO CREATE A  
BALANCED BUDGET**

WHEREAS, In June 2001, Parks, Recreation and Neighborhoods began a project to remodel and to expand the Maddux Youth Center located at 615 Sierra Drive (4<sup>th</sup> Street at G Street) in César E. Chávez Park, and

WHEREAS, construction bids were opened on February 8, 2005, and Acme Construction Co., 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 6.58% of the Engineer's estimate, and

WHEREAS, in order to fully fund construction of the project, the Capital Improvement Program needs to be amended, and

WHEREAS, \$323,000 in revenue available from the City of Modesto's share of Per Capita program of the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40) in Virginia Corridor project will be reduced, and

WHEREAS, \$323,000 in expenditures in Virginia Corridor Project will be reduced, and

WHEREAS, \$323,000 in revenue is available from the City of Modesto's share of the Per Capita program of the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40), and

WHEREAS, \$155,000 in Community Development Block Grant funding that was incorrectly appropriated to project M182 needs to be de-obligated, and

WHEREAS, expenditures for Maddux Youth Center Remodel Project will be increase to reflect a balanced budget and

WHEREAS, on February 3, 2003, the Safety and Communities Committee recommended approval of the Master Plan, Conceptual Drawings and Cost Estimate; 2nd Amendment to RRM Design; and the Initial Study/Statement of Conformance with the MEIR, and

WHEREAS, on March 8, 2004, the Economic Development Committee recommended approval of the angle parking proposal,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Capital Improvement Program to estimate \$323,000 in revenue from the Per Capita program of the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40), and to appropriate \$323,000 in revenue to project 2300-310-M182, Maddux Youth Center Remodel.

BE IT FURTHER RESOLVED by the Council that it hereby approves de-obligation of \$155,000 in estimated revenue from the Community Development Block Grant Program.

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 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-125**

**RESOLUTION ACCEPTING THE WORK BY CLAYBORN CONTRACTING GROUP, INC. FOR THE "RELOCATION OF GAC FILTERS TO WELL 50" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$249,130 PER THE CONTRACT. TOTAL PROJECT COST IS \$296,944**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Relocation of GAC Filters to Well 50" has been completed by Clayborn Contracting Group, Inc. in accordance with the contract agreement dated June 22, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Relocation of GAC Filters to Well 50" project be accepted from said contractor, Clayborn Contracting Group, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$249,130 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 March, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-126**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED  
DEVELOPMENT ZONE, P-D(571). (ST. STANISLAUS CATHOLIC CHURCH)**

WHEREAS, a verified application for an amendment to Section 31-3-9 of the Zoning Map was filed by St. Stanislaus Catholic Church on December 17, 2002, to reclassify from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(571), to allow a 27,200-square-foot church and 27,800-square-foot ministries building on 18.7 acres, property located on the south side of Maze Boulevard east of Carpenter Road, described as follows:

All that certain parcel of land being a part of Lots 26 and 27 of the Maze Ranch Subdivision, as shown on the map thereof filed March 19, 1909 in Volume 4 of Maps, at Page 18, Stanislaus County Records, located in the Northwest quarter of Section 31, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at a brass plate set in concrete that monuments the Northwest corner of said section 31; thence South 89°46'38" East along the section line between sections 30 and 31, said section line being the center line of Maze Boulevard, a distance of 1020.62 feet to THE POINT OF BEGINNING; thence continue along said section line South 89°46'38" East 1039.16 feet; thence leaving the said section line and center line of Maze Boulevard South 0°50'50" East a distance of 699.26 feet to a point on the north line of Lot 8 of Block 4131 of Willow Estate Unit No. 1 filed for record in Book 20 of Maps, at Page 13, Stanislaus County Records; thence along said north line of said Lot 8 South 88°06'08" West a distance of 20.23 feet to the northwest corner of said Lot 8; thence along the west line of said Lot 8 South 02°35'48" East a distance of 100.00 feet to the southwest corner of said Lot 8 and a point on none tangent curve having a central bearing of North 02°35'47" West and a radius of 975.00 feet and being a point on the north right of way line of Sandburg Avenue as shown on said map of Willow Estate Unit No. 1; thence along said north right of way and curve concave to the northwest having a central angle of 0°37'28" an arc distance of 10.63 feet to the northwest terminus of said Sandburg Avenue and having a central bearing of North 01°58'20" West; thence South 88°30'54" West a distance of

1001.21 feet; thence North 08°51'00" West a distance of 830.59 feet to THE POINT OF BEGINNING.

Containing a gross area of 19.38 acres, more or less.

WHEREAS, after a public hearing held on January 24, 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. 2005-03, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed church is located in an appropriate area for a church, being on an Arterial street and well buffered from existing residential development in the area.
2. The church will enhance the western entrance into Modesto on State Highway 132.
3. The proposed rezoning is consistent with the General Plan as churches are permitted in the Residential General Plan Designation for the site and the environmental impacts of the project are within the scope of the General Plan Master EIR.

WHEREAS, said matter was set for a public hearing of the City Council to be held on March 8, 2005, 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 St. Stanislaus Catholic Church for a Planned Development Zone to allow a 27,200-square-foot church and 27,800-square-foot ministries building on 18.7 acres, property located on the south side of Maze Boulevard east of Carpenter Road should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-03 and quoted above, and



WHEREAS, the Council has introduced Ordinance No. 3379-C.S. on the 8th day of March, 2005, reclassifying the above-described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(571).

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

1. All development shall conform to the plot plan and floor plans titled "St. Stanislaus Catholic Church" as amended in red, stamped approved by the City Council on March 8, 2005.
2. The following 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:
  - a. Dedication of right-of-way on the project site frontage of Maze Boulevard to a Minor Arterial street mid-block standard (provide 50 feet of right-of-way from street centerline), in addition to right-of-way needed for any project-specific turn lanes required by the improvement plans as approved by the City Engineer and Caltrans.
3. The following interim street improvements as approved by the City Engineer or designee and Caltrans 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:
  - a. The construction of left-turn pockets and medians to provide for left turning movements for the driveway shared by the church and St. Stanislaus Elementary School.
  - b. Restricting the westernmost driveway of St. Stanislaus Elementary School to right-in, right-out movements only.
4. Ultimate street improvements consistent with Standard Specifications to construct the project frontage of Maze Boulevard to a Minor Arterial street standard shall be secured prior to the

occupancy of any structures. The amount of the security shall be determined pursuant to an engineer's estimate provided by the applicant as approved by the City Engineer or designee. The form of the security shall be as approved by the City Engineer or designee and the City Attorney or designee.

5. The easternmost driveway shared between the church and St. Stanislaus Elementary School shall be widened to 36 feet.
6. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of stormwater in accordance with the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures and the City's current NPDES Permit, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans. Storm drainage for Maze Boulevard shall be provided through roadside swales or other methods as approved by the City Engineer or designee and Caltrans until such time as the full frontage improvements are installed on Maze Boulevard.
7. The water line serving the project shall be looped on-site as approved by the City Engineer or designee.
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 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. As required by Standard Specifications, Section 6.07, an additional fire hydrant will need to be installed near the ministries building, in a location to be approved by the Fire Marshal.
10. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction. The bollards to pre-vent non-emergency access from using the secondary emergency access to Maze Boulevard shall be secured with KNOX pad-locks as approved by the Fire Marshal.

11. 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. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
12. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
13. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
14. 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.
15. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
16. 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.
17. 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.
18. All signs shall comply with the sign requirements of the R-1 Zone.
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. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development

approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master EIR that should be applied to the project, pursuant to the Initial Study (Environmental Assessment No. EA/C&ED 2005-01) prepared for the project:

21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
27. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air

of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

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

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

- h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
- 28. 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.
- 29. 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(571):

The construction program be accomplished in two phases as follows:

- 1. Phase I – Church: Construction to begin on or before March 8, 2007 and completion to be not later than March 8, 2008.
- 2. Phase II – Ministries Building: Construction to begin on or before March 8, 2015 and completion to be not later than March 8, 2016.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(571), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: [Signature]  
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-127**

**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 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(571), PROPERTY LOCATED ON THE SOUTH SIDE OF MAZE BOULEVARD EAST OF CARPENTER ROAD. (ST. STANISLAUS CATHOLIC CHURCH)**

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, St. Stanislaus Catholic Church has proposed that the zoning designation for the property located on the south side of Maze Boulevard east of Carpenter Road be amended to rezone from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(571), to allow a 27,200-square-foot church and 27,800-square-foot ministries building (the "project"), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master 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 2005-01 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezone to P-D(571) project to determine



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

WHEREAS, in accordance with CEQA guidelines beginning on February 11, 2005 the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 8, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(571) project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).
2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
  - 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 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant  
 NOES: Councilmembers: None  
 ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
 MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**Initial Study**  
**EA/C&ED 2005-01**

**City of Modesto**

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

**Initial Study C&ED No. 2005-01**

**For the proposed:**

**Rezoning from R-1 to P-D for Saint Stanislaus Catholic Church**

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

**12/29/04**

**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 project, a church and ministries building for Saint Stanislaus Catholic Church, 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:

- A. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
- B. 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: Rezoning R-1 to P-D, Saint Stanislaus Catholic Church
- B. Address or Location: the south side of Maze Boulevard east of Carpenter Road.
- C. Applicant: Saint Stanislaus Catholic Church, 709 J Street, Modesto, CA 95354
- D. City Contact Person: Steve Mitchell, Principal Planner  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5287  
E-mail address: smitchell@modestogov.com
- E. Current General Plan Designation(s): Residential (R)
- F. Current Zoning Classification(s): Low-Density Residential (R-1)

- G. Surrounding Land Uses:   North: Single family homes  
                                      South: Vineyard  
                                      East: Vineyard and single family homes  
                                      West: Saint Stanislaus Elementary School

- 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 a rezoning from R-1, Low-Density Residential Zone, to P-D, Planned Development Zone, to allow construction of a 27,200-square-foot church and a 27,800-square-foot ministries building on 18.7 acres located on the south side of Maze Boulevard east of Carpenter Road. The project proposes 189 parking spaces on site, and utilizing 136 existing parking spaces on the adjacent Saint Stanislaus Elementary School site. The project will access Maze Boulevard via a widened and improved existing driveway located at the east end of the school site.

- I. Other Public Agencies Whose Approval is Required:

The project will require an encroachment permit from Caltrans for roadway work on Maze Boulevard (State Highway 132).

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

**A. 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:

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.
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 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.

**B.        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:

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. 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.

**C.        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:

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. 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.

Steve Mitchell  
Project Manager

Principal Planner  
Title

January 24, 2005  
Date



**D. 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"/>

**E. Currency of the Master EIR Document**

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

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

#### **IV. ENVIRONMENTAL ANALYSIS**

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the 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.

#### **A. TRAFFIC AND CIRCULATION**

##### **1. 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.

**2. 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:

There are no specific traffic mitigation measures from the MEIR that are directly applicable to this project.

**3. 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 |
|--|--------------------------|----|
| (a) 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 MEIR.   | <input type="checkbox"/> | X  |
| <p>Where 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 will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering &amp; Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.</p> |                          |    |
| (b) 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  |
| (c) Result in inadequate emergency access.   | <input type="checkbox"/> | X  |
| (d) Result in inadequate parking capacity.   | <input type="checkbox"/> | X  |

Discussion:

- (a) A site access study ("Supplemental Traffic Analysis, St. Stanislaus Catholic Church,

Modesto, California" dated October 27, 2004, attached) was prepared for this project by Dowling Associates, Inc.. Because church services have been held in an existing facility at the adjacent St. Stanislaus Elementary School for several years, the Analysis concludes that the increase in trips generated by the new church would be minimal, and consequently that there would be no new significant traffic impacts generated by the project. The Analysis further compared the projected 2025 traffic conditions of the General Plan MEIR with and without the project, and concluded that the project would not cause a drop in the Level of Service (LOS) of any nearby intersections or road segments beyond what was assumed in the MEIR. The Analysis has been reviewed by the City's Traffic Engineering section, and they concur with its findings.

- (b) Since the project will utilize an existing driveway for access, and will be required to improve that driveway to City standards, the project will not substantially increase hazards due to a design feature.
- (c) The City's Fire Marshall is requiring, and the applicant is providing, a secondary emergency-only access to the project from Maze Boulevard. This will ensure that the project has adequate emergency access.
- (d) The project proposes 189 parking spaces on site, and utilizing 136 existing parking spaces on the adjacent Saint Stanislaus Elementary School site to meet City parking standards. Although the existing parking spaces are shared with the Elementary School, there will be adequate parking for both uses, as the church and school have operating hours that do not overlap.

## **B. AIR QUALITY**

### **1. 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.

### **2. Master EIR and/or New Mitigation Measures Applied to the Project**

Air Quality mitigation measures 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 from the MEIR appropriate to this project are the relevant PM10 control measures listed in Section IV.

**3. 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 |
|--|--------------------------|----|
| (a) 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  |
| (b) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.   | <input type="checkbox"/> | X  |
| (c) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (d) The project would expose sensitive receptors to substantial pollutant concentrations.  | <input type="checkbox"/> | X  |
| (e) The project would create objectionable odors affecting a substantial number of people.   | <input type="checkbox"/> | X  |

Discussion:

- (a) 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 directly related to the traffic impacts of the project.
- (b) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (c) 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).
- (d) The project is not a significant contributor to pollution levels in that it is a church that operates only during times when the adjacent elementary school (which is a sensitive receptor) is not operating.
- (e) Since the project is a church, it will not produce objectionable odors and is not in close proximity to residences.

**C. NOISE**

**1. 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.

**2. 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.

**3. 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 |
|--|--------------------------|----|
| (a) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.   | <input type="checkbox"/> | X  |
| (b) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (c) 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  |
| (d) 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:

- (a) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (b) The project is consistent with the noise policies of the General Plan, and churches are a permitted use in the Residential General Plan designation for the site. 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.
- (c) Churches in of themselves do not result in a substantial permanent increase in ambient noise levels. 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.
- (d) Since church services are already held at facilities on the adjacent elementary school site, which shares the access point with the proposed church, there would be no significant temporary increase in ambient noise levels in the project vicinity above levels existing without the project.

**D. AGRICULTURAL LANDS**

**1. 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.

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

Agricultural Land mitigation measures 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:

Since the project is located in the General Plan's Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural lands and no mitigation measure is required, pursuant to General Plan Policy AL-17.

**3. 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
(a) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(b) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(c) The project will conflict with existing zoning for agricultural use or a Williamson Act contract.	<input type="checkbox"/>	X
(d) 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:

- (a) The project is consistent with the General Plan land use policies, as churches are a permitted use in the General Plan Residential Land Use Designation for the site.
- (b) The project is within the General Plan's Baseline Developed Area and therefore will not result in the development of land outside the March 2003 planning area boundaries.
- (c) The project site is not zoned for agriculture, nor is it under Williamson Act contract.
- (d) Since the project and immediately-adjacent agricultural lands are located in the General Plan's Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural, pursuant to General Plan Policy AL-17.

**E. WATER SUPPLY**

**1. 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.

## **2. Master EIR and/or New Mitigation Measures Applied to the Project**

Water Supply mitigation measures 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 measure applicable to this project.

## **3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) As indicated above, the project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

- (b) The City's Public Works Department has analyzed the project and determined that sufficient water supplies are available to serve the project.

## **F. SANITARY SEWER SERVICES**

### **1. 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.

### **2. Master EIR and/or New Mitigation Measures Applied to the Project**

Sewer Service mitigation measures 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.

### **3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (b) The City's Public Works Department has analyzed the project and determined that sufficient sewer capacity is available to serve the project.

**G. SENSITIVE WILDLIFE AND PLANT HABITAT**

**1. 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.

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

Wildlife and Plant Habitat mitigation measures 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 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. The project is located in the General Plan's Baseline Developed Area, and General Plan Policy SWPH-20 states that for

projects in the Baseline Developed Area outside of the Dry Creek and Tuolumne River CPD's, no further biological study is warranted.

### 3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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  |
| (c) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.  | <input type="checkbox"/> | X  |

#### Discussion:

- (a) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (b) 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.
- (c) There is no conflict with any local policies or ordinances protecting biological resources.

## H. ARCHAEOLOGICAL OR HISTORICAL SITES

### 1. 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.

## 2. 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:

Mitigation Measures applicable to this project include: AH-8.

## 3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (b) 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.

## **I. STORM DRAINAGE**

### **1. 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.

### **2. Master EIR and/or New Mitigation Measures Applied to the Project**

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. 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:

Mitigation measures appropriate to this project include: SD-5. This mitigation measure is addressed by the conditions of approval requiring that storm drainage be provided on-site and in accordance with the City's stormwater management guidelines.

### **3. 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 |
|--|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (b) 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  |
| (c) 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:

- (a) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (b) The project proposes to increase the impervious surface. However, the stormwater system for the project will be required to 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.
- (c) The project will be required to provide for treatment, storage and disposal of all stormwater runoff from the project on site, in accordance with the "Guidance Manual for New Development-Storm Water Quality Control Measures", and therefore will not contribute runoff water that would exceed the capacity of existing storm water drainage systems.

**J. FLOODING AND WATER QUALITY**

**1. 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.

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

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 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:

Mitigation measures appropriate to this project include: FWQ-14. This mitigation measure is addressed by the conditions of approval requiring that storm drainage be provided on-site and in accordance with the City's stormwater management guidelines.

## 3. 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
(a)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(b)	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
(c)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(d)	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:

- (a) The project is consistent with the General Plan Designation for the site both in land use and intensity.
- (b) The project will comply with the Federal Clean Water Act and the Porter Cologne Act requirements, as implemented through the City's stormwater management standards.
- (c) The project will be required by conditions to comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
- (d) The project will be required to provide for treatment, storage and disposal of all stormwater runoff from the project on site, in accordance with the "Guidance Manual for New Development-Storm Water Quality Control Measures", and therefore will not contribute runoff water that would exceed the capacity of existing storm water drainage systems.

**K. PARKS AND OPEN SPACE**

**1. 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.

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

Parks and Open Space Mitigation Measures 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.

### 3. 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                                  |
|---|--------------------------|-------------------------------------|
| (a) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (a) The project is consistent with the General Plan in both land use and intensity.

### L. SCHOOLS

#### 1. 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.

#### 2. 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 measures 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 measure applicable to this project.

**3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) The project is consistent with the General Plan in both land use and intensity.
- (b) The project will be required by the conditions of approval to comply with the provisions of SB 50.

**M. POLICE SERVICES**

**1. 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.

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

Police Services mitigation measures 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.

**3. 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 |
|--|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (b) 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.

**N. FIRE SERVICES**

**1. 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.

## 2. 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 measures 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.

## 3. 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 |
|--|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (b) 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.

## O. SOLID WASTE

### 1. 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.

## **2. Master EIR and/or New Mitigation Measures Applied to the Project**

Solid Waste Mitigation Measures 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.

## **3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) The project is consistent with the General Plan in both land use and intensity.
- (b) The City's Solid Waste Division has indicated that there currently exists adequate solid waste disposal capacity to serve new development proposals.

## **P. HAZARDOUS MATERIALS**

### **1. 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.

**2. 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 Measures 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.

**3. 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
(a) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(b) 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
(c) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(d) 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
(e) 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:

- (a) The project is consistent with the General Plan in both land use and intensity.
- (b) As a church, the project will not generate significant amounts of hazardous waste. Nevertheless, the project will be required to 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.
- (c) The project site is not known to contain any contaminants.
- (d) As a church, the project will not emit hazardous waste or handle hazardous materials.
- (e) 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.

**Q. LANDSLIDES AND SEISMIC ACTIVITY**

**1. 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.

**2. 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 Measures 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.

### 3. 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 |
|---|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (b) 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:

- (a) The project is consistent with the General Plan in both land use and intensity.
- (b) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. No unstable soils have been identified in the project vicinity.

## R. ENERGY

### 1. 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.

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

The following energy mitigation measures 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.

**3. 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 |
| (a) | The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |

Discussion:

- (a) The project is consistent with the General Plan in both land use and intensity.

**S. 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.

**1. 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 |
| (a) | The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (b) | The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (c) | The project would physically divide an established community                         | <input type="checkbox"/> | X  |

Discussion:

- (a) The project is consistent with the General Plan in both land use and intensity. Church's are a permitted use in the General Plan Residential Land Use Designation for the site.
- (b) No amendment to the General Plan is required by this project.
- (c) The project is not located in an area that would divide an established community, being surrounded by agricultural lands on three sides.

**T. 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.

**2. 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 |
|--|--------------------------|----|
| (a) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (b) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | X  |
| (c) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.             | <input type="checkbox"/> | X  |
| (d) 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:

- (a) The project is consistent with the General Plan in both land use and intensity.
- (b) Although located on agricultural lands, these agricultural lands are surrounded by urban development, so the construction of a church would significantly impact any scenic vistas.
- (c) The project is located on existing agricultural land. However, the church buildings are of high architectural quality, and are located well back from both Maze Boulevard and adjacent development, and surrounded by generous landscaping. Therefore, no substantial degradation of existing visual character or quality of the project site and its surroundings will occur.
- (d) The only potential source of additional light and glare would be from lighting required for the proposed parking areas. However, the parking areas are located to the rear of the building and a substantial distance from adjacent residential areas. Further, City standards require that the parking lot lighting be shielded from residential areas.

## **V. MITIGATION MEASURES APPLIED TO THE PROJECT**

### **1. 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.

#### **Traffic and Circulation Measures:**

None applicable.

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

- a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
- b. All 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.
- c. 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.
- d. 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.)*
- e. 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.
- f. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

#### **Noise Measures:**

- a. 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.):

- i. A hammer, or any other device or implement used to pound or strike an object.
- ii. An impact wrench, or other tool or equipment powered by compressed air.
- iii. A hand-powered saw.
- iv. 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.
- v. 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.
- vi. 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.
- vii. 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.
- viii. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

**Agricultural Land Measures:**

None applicable.

**Water Supply Measures:**

None applicable.

**Sanitary Sewer Service Measures:**

None applicable.

**Sensitive Wildlife and Plant Habitat Measures:**

None applicable.

**Archaeological or Historic Sites Measures:**

- a. 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:**

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

**Flooding and Water Quality Measures:**

- a. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Public Works 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.
- b. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

None applicable.

**Schools Measures:**

None applicable.

**Police Services:**

None applicable.

**Fire Services:**

None applicable.

**Generation of Solid Waste**

None applicable.

**Generation of Hazardous Materials**

None applicable.

**Potential for Landslides and Seismic Activity**

None applicable.

**Energy**

None applicable.

**Planning and Land Use**

None applicable.

**Aesthetics**

None applicable.

**2. Project-Specific Mitigation Measures**

None applicable.

Attachment



*Supplemental Traffic Analysis*

ST. STANISLAUS CATHOLIC CHURCH

MODESTO, CALIFORNIA

October 27, 2004

**Dowling Associates, Inc.**

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## 1. INTRODUCTION

This traffic analysis evaluates the traffic impacts of the proposed St. Stanislaus Catholic Church Master Plan project. The proposed project site is located on the south of Maze Boulevard and east of Carpenter Road, in the City of Modesto. This report is supplemental to previous analysis presented in a Draft Traffic Study dated December 13, 2003. In addition to the incorporation of various corrections and additional data, this report addresses a modified project less intensive overall and to be completed in one stage.

As currently proposed the development is to take place on a 10.58 acre portion of an 18.71 acre parcel. The project consists of a new church building with 27,612 square feet of floor area and 1300 seats and a 27,608 sq. ft. ministries building. The site includes space for parking. Access to the site is provided from existing driveways on Maze Boulevard. Figure 1 shows the project site. Note that the project has no connection with the Central Catholic High School. The project traffic does not have significant impacts on access to the high school and no traffic from the high school can travel through the project site. The project does not include any expansion of the existing elementary school or modification of the existing driveways. The project purpose is simply to house existing on going Sunday congregations that currently take place in the Elementary School gymnasium in a modern and adequate facility and to move existing ministries taking place at the school site activities into a dedicated facility. The only contribution of the project to traffic will be due to the inclusion of 8 new staff members at the proposed ministries building. Figure 1 shows the project site and immediate vicinity.

No modifications to Maze Boulevard or any off site roadways are contemplated as part of this project or this analysis. In the short term, through completion of the project, Maze Boulevard is expected to remain a two-lane facility. In the long term General Plan Build-Out scenario (2025), Maze Boulevard is to be built as a four lane minor arterial and Carpenter Road is expected to be a six-lane Class C expressway.

The project is not expected to participate in either of these projects because there is no "nexus" between the project and the road widening envisioned in the General Plan. Furthermore, it is unclear whether Maze Road will be widened by 2025 or within the foreseeable future for two reasons: (1) the need to widen Maze Blvd. is primarily triggered by the urban development proposed west of Carpenter Road in Modesto's 1995 General Plan. Since the adoption of the General Plan, no such urban development has occurred or has been proposed and such development appears very unlikely. Also, the City will soon revise its General Plan and staff has indicated that the land uses west of Carpenter might be substantially revised to reduce or eliminate such urban uses. (2) The 132 expressway/by-pass proposed along the Kansas Avenue alignment approximately 1/2 mile north of Maze Road, while not currently funded, is a high priority for the City of Modesto and Stanislaus County, which will significantly reduce the traffic counts on Maze Road.

## *1.1 Summary*

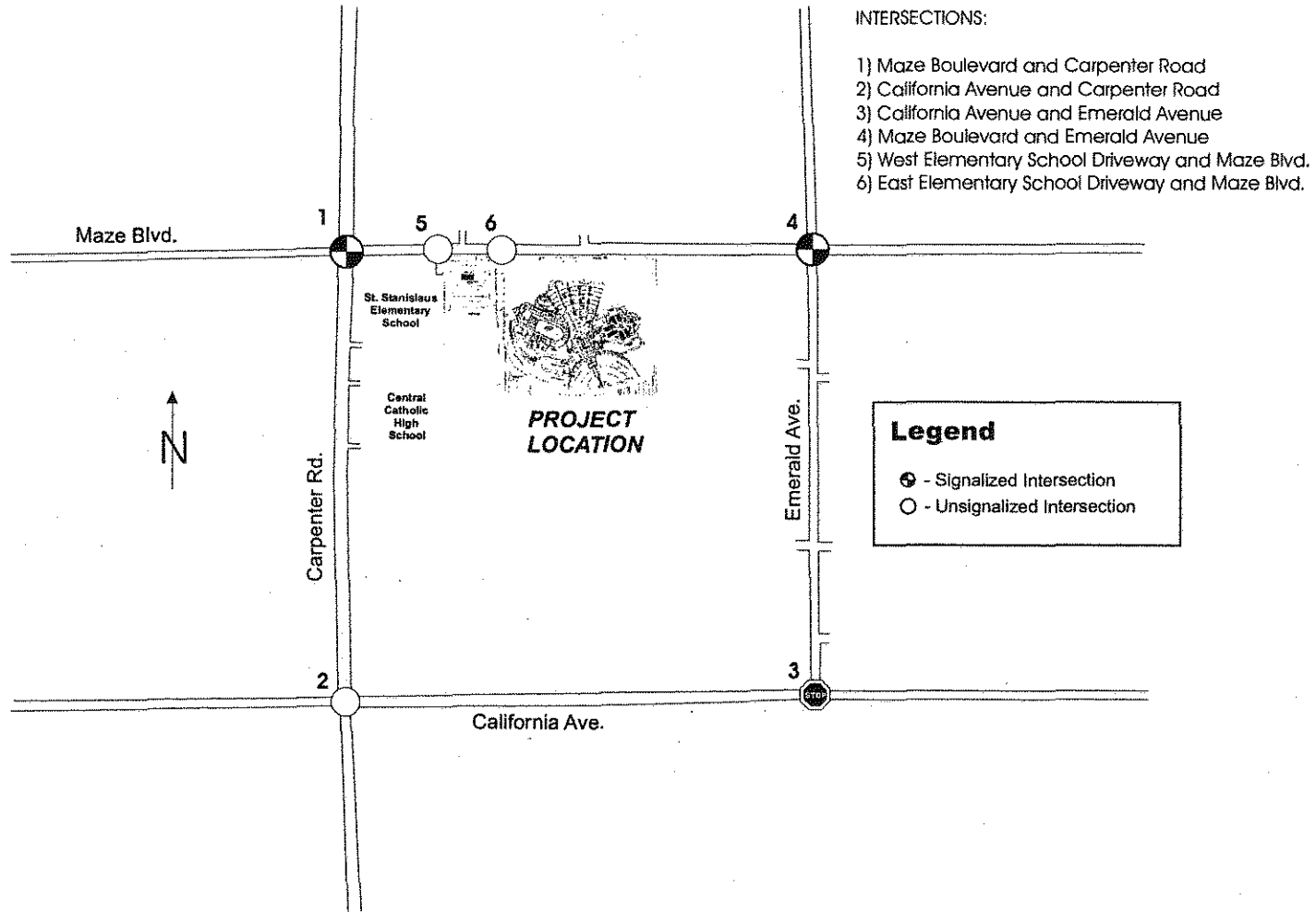
A review of the project site plan revealed that access for the site would continue to be from the elementary school driveways as under existing conditions. The connection between the proposed site and these driveways shall be adequate with minor modification. No off-site impacts have been identified.

On site, a potential impact was identified at the connection between the proposed church circulation system and the existing elementary school circulation system. Another potential impact was anticipated at the intersection of the northernmost existing parking bay and the existing driveway with the increase in traffic. Mitigation measures have been identified in both cases involving minor improvements to the elementary school parking lot.

In the general plan build-out scenario (Year 2025) background growth in traffic causes the intersection of California Avenue and Carpenter Road to meet peak hour warrants for signalization during all peak periods. This is not a project impact.

In the existing condition, left turn volumes from Maze Boulevard onto the adjacent school site reach the level where a left turn pocket is recommended to serve left turns into the East School driveway. This is a baseline condition and project traffic does not materially alter this finding.

**Figure 1 – Project Location**



## 2. EXISTING TRAFFIC CONDITIONS

It must be reiterated that the propose project is intended to serve existing activity on site. Therefore the level of traffic that exists now is expected to persist with completion of the project. What changes do occur will result form a very low level of weekday peak hour trip generation and from minor changes in the pattern of use of existing driveways.

Weekday traffic in the project vicinity is generated by the existing St. Stanislaus Elementary School, which is attended by 286 students. The proposed project does not change the school or substantially modify access to the school. The proposed project does not generate substantial weekday traffic as compared to the City of Modesto's thresholds for traffic impact analysis. The project is expected to generate 16 AM and PM peak hour trips (which does not even meet the threshold for performing a Traffic Impact Study according to the City of Modesto's impact analysis criteria). Furthermore it is expected that no encroachment permit shall be required because no changes are proposed along the frontage of Maze Boulevard (S.R. 132)

Figure 2 shows the weekday peak hour intersection existing traffic lane configurations at the vicinity intersections and the existing traffic controls for each intersection. The intersections analyzed in this study are also identified in this figure.

- During the AM peak hour the school generates 367 trips or 1.28 trips per student. The counts revealed 190 entering trips and 177 existing trips. In the AM peak hour 59 percent of the inbound traffic enters from the west while 89 percent exits to the east. This is an indication that entering vehicles are circumnavigating the site to enter by making right turns to avoid queues in the westbound direction waiting to enter by making a left turn.
- During the PM peak hour the school and community center generate 71 trips.
- During the Sunday peak hour the Spanish worship service generates 476 trips for an estimated attendance of 1051. The average attendance for the Spanish worship service was reported by the proponent to be 852 persons. This is the peak service each week.

Traffic counts at the key intersections were taken in the morning and afternoon peak traffic periods on Thursday, December 5, 2002. Twenty-four hour machine counts were taken to identify the Sunday peak hour. Sunday turning counts were again taken on Sunday, January 12, 2003. Existing school driveway counts were conducted on December 14, 2003, to observe peak church mass traffic.

AM Driveway counts at the elementary school access were taken on Thursday, February 5, 2004. The elementary school adjourns prior to the background PM peak hour so existing afternoon driveway volumes were estimated based on ITE Trip generation.

Figure 2 shows the existing weekday traffic volume levels in the project vicinity for the morning and afternoon peak hours with lane configurations, and the existing Sunday volume levels for the highest hour of background traffic activity in the 4:30 to 5:30 PM period.

24-hour average daily traffic counts were also taken at four roadway locations in the study area from Wednesday, December 4, to Tuesday, December 10, 2002. These were used to determine the existing Level of Service of the roadway segments. It was also found that peak hour volumes counted at Carpenter/California were significantly lower than concurrent indicated by 24-hour daily traffic counts taken on the southbound and westbound approaches. As a result, the existing intersection turning movement volumes were factored up to match the 24-hour counts also taken on Thursday, December 5.

### ***2.1 Existing Mass Traffic Generation***

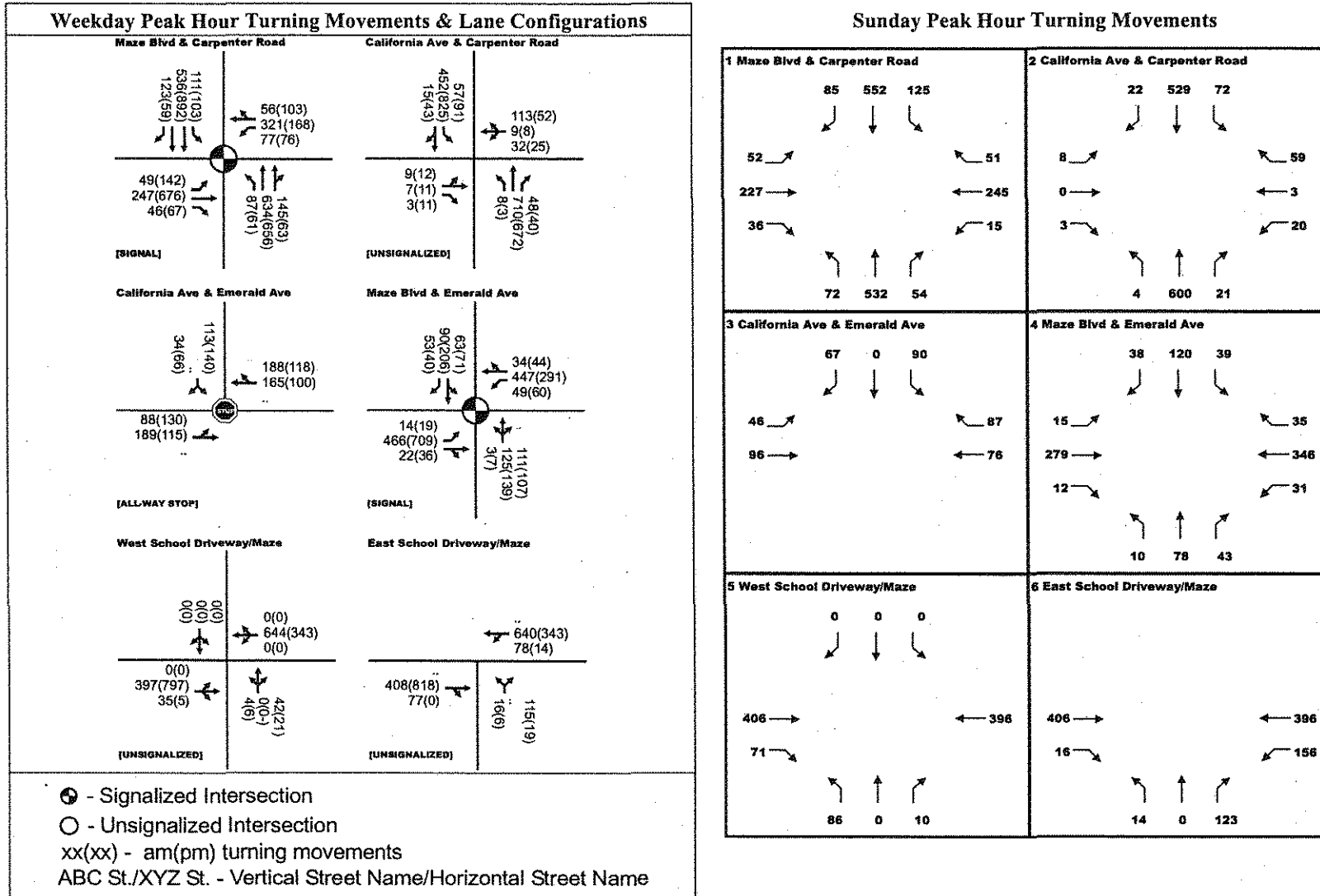
Existing church related activities take place at the St. Stanislaus Elementary School and in the community center/gymnasium. These facilities use the same driveways as the project and with respect to off-site impacts can be regarded as the same site. Traffic generated from activities that relocate to the new church and ministries buildings from the existing elementary school and the community center shall be considered as existing traffic and will not be considered as project trip generation.

#### Existing Sunday Mass Trip Generation

On Sundays, the community center currently holds a morning mass in Spanish from 10:00 to about 11:30 a.m., a Spanish Service mass from 1:00 to about 2:30 p.m. and an evening mass in English from 5:30 to 7:00 p.m. These times include other activities related to the service.



**Figure 2 – Existing Weekday and Sunday Peak Hour Turning Movements and Lane Configurations**



The largest mass each Sunday is the Spanish worship service with an average attendance of about 852 persons. During two years, the highest recorded mass for this service reached 1,047 persons. During traffic counts the trip generation of the Spanish Mass was found to be 476 trips spread over a two-hour period with no overlap between consecutive services. The parking occupancy was found to be 258 vehicles. Using an assumption of one vehicle per four congregants (as per the City's Parking ordinance), this would correspond to a mass of about 1,016 persons. The demographic character of the largest service of the Church, the 1:00 PM Spanish Worship Service is such that vehicle occupancies between 4 and 5 persons are typical.

#### Existing Weekday Activities

Currently, the elementary school and community center generate trips from church staff, small group functions, meetings, music rehearsals, social events/dinners, wedding receptions, and a children's faith formation program. This traffic does not typically occur during peak hours.

### **2.2 Intersection Level of Service (LOS) Analysis**

Using the peak hour volumes of Figure 2, a Level of Service analysis was prepared for the study intersections. The results of the intersection LOS analysis are presented in Table 1. Standards of significance, LOS methodologies and calculation worksheets for each intersection are presented in the Technical Appendix. A truck traffic percentage of 12 percent was used in all calculations for all time periods and scenarios for east west traffic on Maze Boulevard. This is consistent with the data contained in the Caltrans report: *2002 Annual Average Daily Truck Traffic on the California State highway System*. Note that this assumption is conservative when applied to Sunday Traffic.

**Table 1 – Existing Conditions Levels of Service**

Intersection	Control <sup>1</sup>	AM Peak Hour		PM Peak Hour		Sunday Peak Hour	
		LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)
1. South Carpenter Rd & Maze Blvd	Signal (8-phase)	C	28.6	D	41.5	C	26.0
2. South Carpenter Rd & California Ave	2-Way STOP	A	6.7	A	9.7	A	2.5
NB Left		<u>A</u>	<u>8.4</u>	<u>A</u>	<u>10.0</u>	<u>A</u>	<u>8.7</u>
SB Left		<u>A</u>	<u>9.8</u>	<u>A</u>	<u>9.8</u>	<u>A</u>	<u>9.3</u>
EB Approach		<u>F</u>	<u>55.6</u>	<u>F</u>	<u>112.0</u>	<u>E</u>	<u>40.4</u>
WB Approach		<u>E</u>	<u>52.7</u>	<u>F</u>	<u>OVFL(4)</u>	<u>D</u>	<u>27.6</u>
3. Emerald Ave & California Ave	All-Way STOP	B	10.9	A	10.0	A	8.5
SB Approach		<u>A</u>	<u>10.0</u>	<u>B</u>	<u>10.1</u>	<u>A</u>	<u>8.6</u>
EB Approach		<u>B</u>	<u>11.0</u>	<u>B</u>	<u>10.5</u>	<u>A</u>	<u>8.6</u>
WB Approach		<u>B</u>	<u>11.1</u>	<u>A</u>	<u>9.3</u>	<u>A</u>	<u>8.2</u>
4. Emerald Ave & Maze Blvd	Signal (2-phase)	B	15.3	C	22.8	B	14.1
5. West Elementary School Access (Maze Boulevard)	1-Way STOP	A	1.1	A	0.9	B	12.0
NB Approach		<u>C</u>	<u>15.9</u>	<u>E</u>	<u>39.5</u>	<u>F</u>	<u>75.1</u>
6. East Elementary School Access (Maze Boulevard)	1-Way STOP	A	5.0	A	1.0	B	10.2
NB Approach		<u>E</u>	<u>39.7</u>	<u>E</u>	<u>41.7</u>	<u>E</u>	<u>44.3</u>
WB Left		<u>A</u>	<u>9.3</u>	<u>B</u>	<u>10.1</u>	<u>A</u>	<u>9.9</u>

<sup>1</sup> Sig = signalized  
<sup>2</sup> LOS = Level of Service  
<sup>3</sup> Weighted average delay  
<sup>4</sup> OVFL = Overflow Delay in excess of 120 seconds

As shown in Table 4 all intersections operate acceptably overall. Minor movements at the intersection of Carpenter Road/California Way and the northbound approaches to the East and West Elementary School Driveways on Maze operate at LOS E or F; however this does not constitute unacceptable intersection LOS because the overall average LOS is not unacceptable.

**2.3 Signal Warrant Analysis**

Signal warrant checks were performed at unsignalized intersections in the study area. It was found that the existing volumes do not meet the peak hour volume criteria at any location.

**3. BACKGROUND (Existing + Approved) TRAFFIC CONDITIONS**

The majority of the development in the area is occurring adjacent to Carpenter Road, north of the site, within the City of Modesto. This area already has experienced much commercial development. The area west of the site is not anticipated to experience much development in the near future according to Stanislaus County planners.

At the time existing traffic counts were collected there were several approved or pending developments in the vicinity of the project site. The trip generation from these projects must be considered as part of the background traffic conditions.

**3.1 Approved Developments**

Approved (but not yet built at the time of existing traffic counts) projects include those in the following list. Trip generation for each facility was estimated based on the Institute of Transportation Engineers (ITE) trip generation rates and is summarized in Table 2.

**Table 2 - Approved Project Trip Generation**

Facility	Size (ksf)	Pass-by trips (red.)	Daily			AM Peak Hour			PM Peak Hour			Sunday Peak Hour		
			Tot.	In	Out	Tot.	In	Out	Tot.	In	Out	Tot.	In	Out
A-Tek Glass Center	7.09	N/A	164	82	82	39	33	6	52	11	41	18	11	6
Social Security Office Building	26.55	N/A	1830	915	915	156	131	25	293	217	76	0	0	0
Mexican Restaurant	4	50%	521	261	261	19	10	9	22	13	9	40	25	15
<i>Totals:</i>			2515			214			367			58		

1. A-Tek Glass Center

This 38,000 sq. ft. site will be located at 1133 N. Carpenter Rd (between Torrid & Woodland Avenue). The store will have about 7,000 sq. ft. of floor space.

2. Government social security office building:

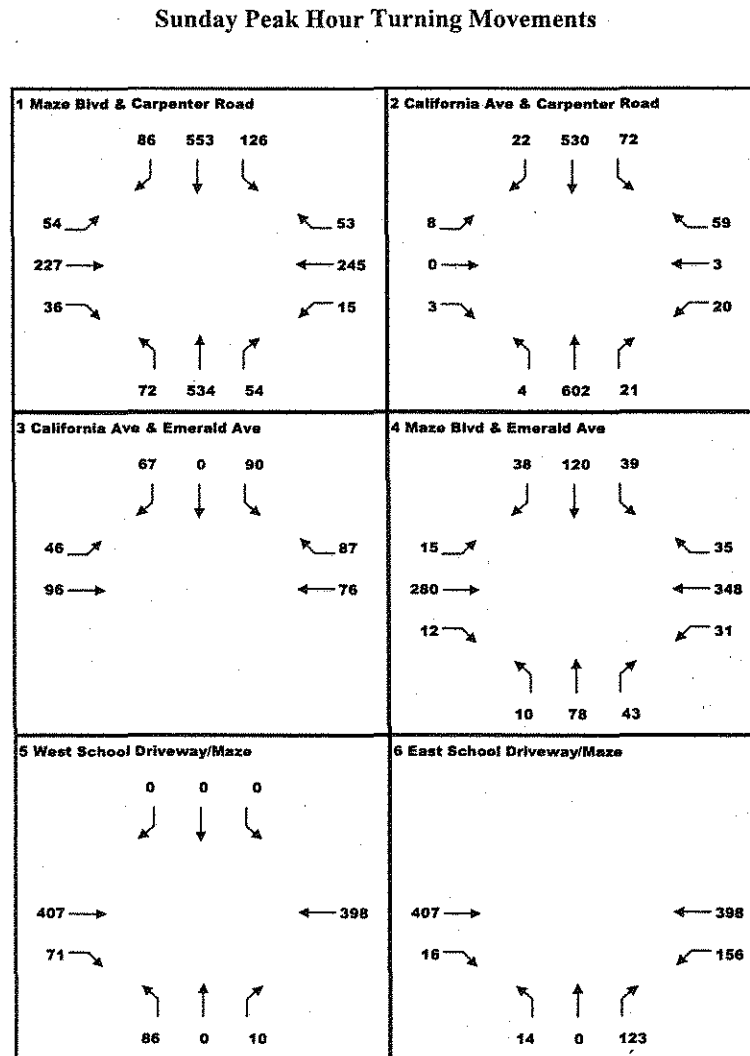
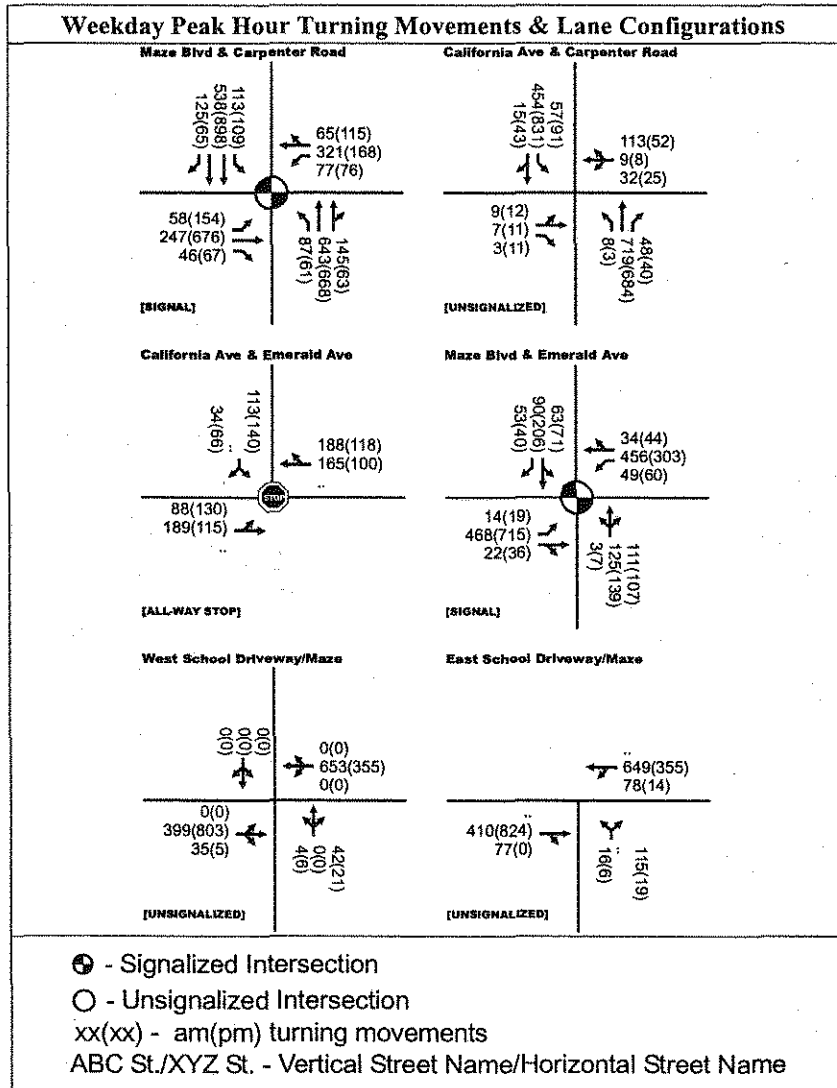
This will be located on a parcel of land on the south side of Cummins Rd at N. Carpenter Rd, with about 26,550 sq. ft. of floor space.

3. Mexican restaurant:

This project has not yet been approved, but it is anticipated to be located on North Carpenter Road at Torrid Avenue, with several thousand square feet of floor space. The facility is expected to generate pass-by trips (i.e. patrons who stop at the restaurant during other trip purposes), and a pass-by trip reduction of 50 percent (based on the Trip Generation Handbook, ITE) was applied to the trips estimated for this project using the ITE rates.

Trips for each facility were assigned to study intersections based on analysis of existing traffic patterns and census information. The resulting background (existing + approved) turning movement traffic volumes at study intersections are shown in Figure 3.

**Figure 3 – Background Weekday and Sunday Peak Hour Turning Movements and Lane Configurations**



The results of background traffic analysis indicate that the approved developments along Carpenter Road will not have a great impact on the site because of the site's location relative to those developments, and the fact that there are several major roads north of Maze that would attract this traffic.

**3.2 Intersection Level of Service (LOS) Analysis**

The LOS for each intersection was again estimated using the procedures discussed earlier. The results of this analysis are presented in the Table 3. The calculation worksheets for this level of service analysis are also presented in the Appendix.

**Table 3 – Background Conditions Levels of Service**

Intersection	Control <sup>1</sup>	AM Peak Hour		PM Peak Hour		Sunday Peak Hour	
		LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)
1. South Carpenter Rd & Maze Blvd	Signal (8-phase)	C	29.0	D	41.9	C	26.1
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NB Left		<u>A</u>	<u>8.4</u>	<u>B</u>	<u>10.0</u>	<u>A</u>	<u>8.7</u>
SB Left		<u>A</u>	<u>9.9</u>	<u>A</u>	<u>9.9</u>	<u>A</u>	<u>9.3</u>
EB Approach		<u>F</u>	<u>57.1</u>	<u>F</u>	<u>118.3</u>	<u>E</u>	<u>40.6</u>
WB Approach		<u>F</u>	<u>54.8</u>	<u>F</u>	<u>OVFL(4)</u>	<u>D</u>	<u>27.8</u>
3. Emerald Ave & California Ave	All-Way STOP	B	10.9	A	10.0	A	8.5
SB Approach		<u>A</u>	<u>10.0</u>	<u>B</u>	<u>10.1</u>	<u>A</u>	<u>8.6</u>
EB Approach		<u>B</u>	<u>11.0</u>	<u>B</u>	<u>10.5</u>	<u>A</u>	<u>8.6</u>
WB Approach		<u>B</u>	<u>11.1</u>	<u>A</u>	<u>9.3</u>	<u>A</u>	<u>8.2</u>
4. Emerald Ave & Maze Blvd	Signal (2-phase)	B	15.3	C	22.9	B	14.1
5. West Elementary School Access (Maze Boulevard)	1-Way STOP	A	1.1	A	1.0	B	12.2
NB Approach		<u>C</u>	<u>16.0</u>	<u>E</u>	<u>42.1</u>	<u>F</u>	<u>76.5</u>
6. East Elementary School Access (Maze Boulevard)	1-Way STOP	A	5.1	A	1.0	B	10.3
NB Approach		<u>E</u>	<u>41.1</u>	<u>E</u>	<u>44.7</u>	<u>E</u>	<u>44.9</u>
WB Left		<u>A</u>	<u>9.4</u>	<u>B</u>	<u>10.1</u>	<u>A</u>	<u>10.0</u>

<sup>1</sup> Sig = signalized  
<sup>2</sup> LOS = Level of Service  
<sup>3</sup> Weighted average delay  
<sup>4</sup> OVFL = Overflow Delay in excess of 120 seconds

Due to additional traffic generated by the approved developments, the delay for almost all movements would increase, however, the Level of Service designations would not change and there would be no significant impacts at study intersections.

#### 4. PROJECT TRAFFIC

The project's traffic impacts are estimated in this section by considering the amount of traffic to be generated by the project and the directional distribution of that traffic. The study analyzed the weekday AM peak hour, PM peak hour, and Sunday peak hour.

##### 4.1 *Trip Generation*

The project's potential trip generation was estimated from information made available from the St. Stanislaus Catholic Church and its architects. Weekday trip generation has been developed. Note that the church is to house existing services, no additional Sunday traffic will be generated by the project.

##### Weekday Trip Generation

Weekday peak hour trip generation would consist mainly of the relocation of various activities from the existing elementary school and community center to the new church and ministries buildings. These trips would utilize the same driveways as they do now and would not constitute project induced trip generation. As discussed in section 2.1 under existing conditions this would include church staff, small group functions, meetings, music rehearsals, social events/dinners, wedding receptions, and a children's faith formation program. Trips made by church staff and some small group functions will occur as they currently do, so no additional project trip generation is attributed to these activities.

What weekday project peak hour trip generation will occur will result from eight (8) staff persons who will be moved to the new ministries building from the parish hall in Downtown Modesto. Table 4 presents the trip generation rates and the resulting peak hour trips to be generated by this project. The peak hours are the hours of peak traffic activity on adjacent streets, and generally occur in the 7:00 to 9:00 a.m. period and the 4:00 to 6:00 p.m. period. A trip is defined as a one-way vehicle movement that either begins or ends within the project site.

##### Sunday Peak Hour Trip Generation

The project will generate NO net increase in Sunday traffic above the existing conditions. This is because all of the activities proposed to take place on the project site currently take place at the elementary school and community center. The project involves no change in the scheduling of masses. On average, the existing church attendance patterns would substantially fill the new church. The proposed church includes no 'extra' capacity to serve new congregants but simply serves existing fluctuation in attendance more adequately.

##### Trip Generation Summary

The sole source of new peak hour traffic attributable to the proposed project is the addition of eight (8) new staff members at the ministries building. It is assumed that each

of these persons would generate one inbound and one outbound trip end during the weekday AM and PM peak hours. Trip Generation is summarized in Table 4.

**Table 4 – Site Trip Generation Estimate**

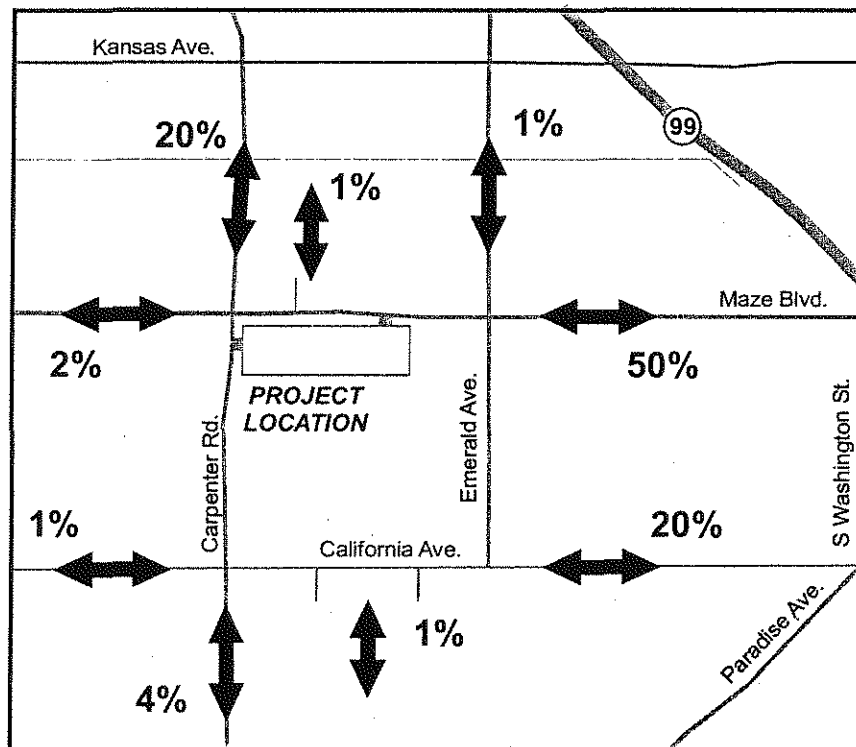
Facility	Size	AM Peak Hour Trips			PM Peak Hour			Sunday Peak Hour		
		IN	OUT	Total	IN	OUT	Total	IN	OUT	Total
Ministries Building	8 New Staff	8	8	16	8	8	16	-	-	-

**4.2 Directional Distribution**

The directional distribution of site-related traffic was estimated using a population density map of the St. Stanislaus church coverage area (diocese). Anticipated trips were apportioned to study area gates based on the size and density of the area from which they originate. The distribution was then reviewed and revised by City of Modesto Engineering Staff.

It is assumed that this distribution applies to all peak periods and it applies to all site facilities. The proportional distribution of traffic to major “gates” is shown in Figure 4.

**Figure 4 – Directional Distribution of Site Traffic, All Peak Periods**





### **4.3**      *Traffic Assignment*

Using the directional distribution patterns estimated above, the project's traffic generation was assigned to the vicinity street system. Generally, the shortest, most direct travel path was used in the assignment process. The assignment of church traffic between the two driveways is based on observations of existing traffic.

**5. 2003 BACKGROUND PLUS PROJECT TRAFFIC CONDITIONS**

The project's traffic impacts are estimated in this section by adding Project traffic to background (existing plus approved) traffic conditions at study intersections and roadways and performing level of service analysis. Figure 5 shows the background plus project turning movement volumes for all peak periods.

**5.1 Intersection Level of Service (LOS) Analysis**

The results of Background plus Project LOS analysis are presented in Table 5. The calculation worksheets for this level of service analysis are also presented in the Appendix. With the additional site traffic, all existing intersections operating at acceptable levels of service overall would continue to operate acceptably.

**Table 5 – Background Plus Project Levels of Service**

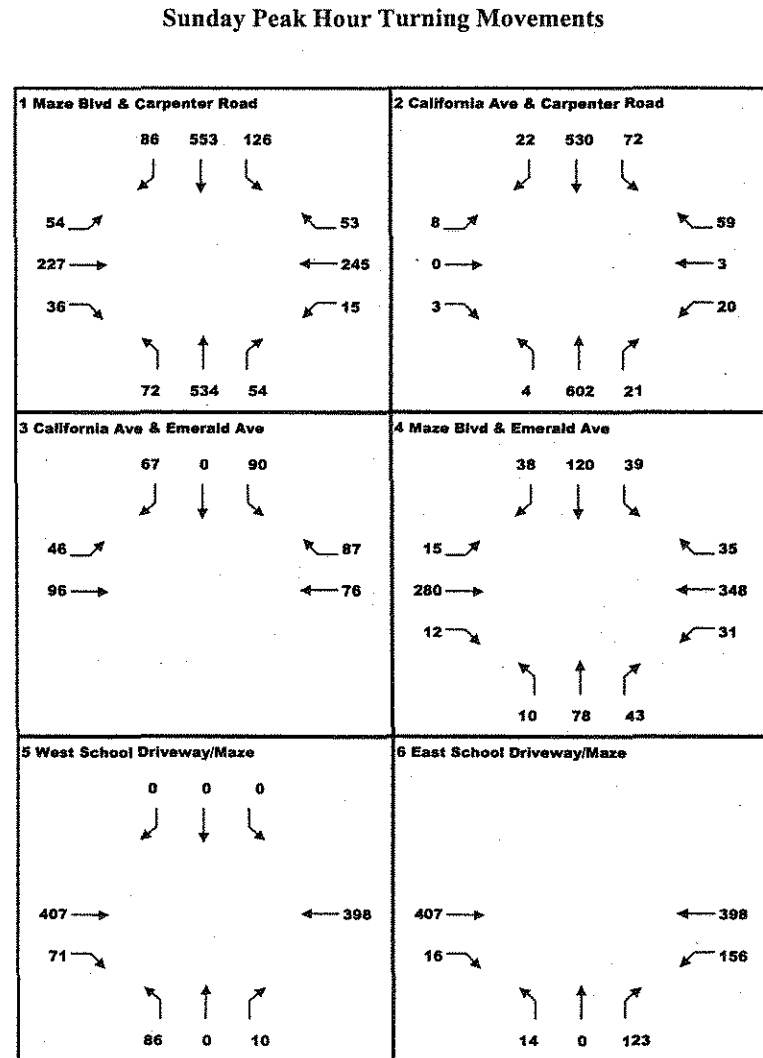
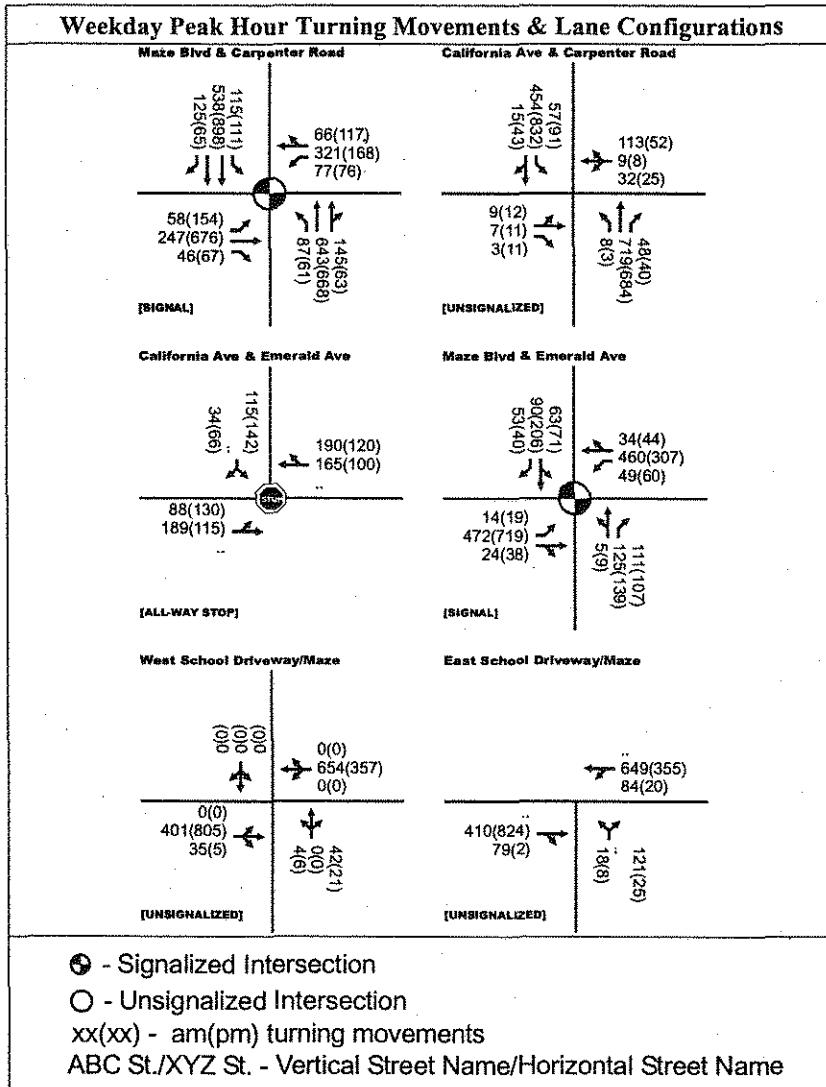
Intersection	Control <sup>1</sup>	AM Peak Hour		PM Peak Hour		Sunday Peak Hour	
		LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)
1. South Carpenter Rd & Maze Blvd	Signal (8-phase)	C	28.7	D	41.8	C	26.0
2. South Carpenter Rd & California Ave	2-Way STOP	A	6.9	B	10.4	A	2.6
NB Left		A	8.4	B	10.0	A	8.7
SB Left		A	9.9	A	9.9	A	9.3
EB Approach		F	57.1	F	118.6	E	40.6
WB Approach		F	54.8	F	OVFL(4)	D	27.8
3. Emerald Ave & California Ave	All-Way STOP	B	10.9	B	10.0	A	8.5
SB Approach		B	10.0	B	10.2	A	8.6
EB Approach		B	11.0	B	10.5	A	8.6
WB Approach		B	11.2	A	9.3	A	8.2
4. Emerald Ave & Maze Blvd	Signal (2-phase)	B	14.3	C	21.5	B	13.9
5. West Elementary School Access (Maze Boulevard)	1-Way STOP	A	1.1	A	1.0	B	12.2
NB Approach		C	16.1	E	42.8	F	76.5
6. East Elementary School Access (Maze Boulevard)	1-Way STOP	A	6.6	A	1.5	B	10.3
NB Approach		F	52.1	F	51.5	E	44.9
WB Left		A	9.4	B	10.2	A	10.0

<sup>1</sup> Sig = signalized  
<sup>2</sup> LOS = Level of Service  
<sup>3</sup> Weighted average delay  
<sup>4</sup> OVFL = Overflow Delay in excess of 120 seconds

**5.2 Signal Warrant Analysis**

A signal warrant analysis was performed at the unsignalized intersections in the study area. The signal-warrant worksheets are presented in Appendix A. None of the unsignalized facilities meets peak hour warrants for signalization.

**Figure 5 – Background Plus Project Weekday and Sunday Peak Hour Turning Movements and Lane Configurations**



## 6. 2025 NO PROJECT TRAFFIC CONDITIONS

Cumulative 2025, No Project analysis assumes background traffic conditions based on the forecasts generated by the City of Modesto's General Plan travel demand model. The traffic volumes in this model are projected without the proposed project, but do include other approved or pending projects. Included in these traffic conditions is traffic growth due to local and regional development, specific proposed or pending developments that would add traffic to the vicinity streets and intersections, and planned roadway and intersection improvements.

The forecast 2025 intersection approach and departure volumes were used along with the existing turning movement volumes to estimate the 2025 No Project peak hour turning volumes<sup>1</sup>. This process was carried out for the weekday morning and afternoon peak hour volumes. Sunday peak hour volumes were not available from the 2025 model results so an overall growth factor was calculated from the difference between the existing and 2025 weekday PM peak hour volumes. This factor was then applied to the existing Sunday peak period volumes to estimate the Sunday 2025 volumes. The PM peak hour volumes were used because the Sunday peak hour occurs in the late afternoon. Figure 7 shows the future estimated 2025 traffic volumes without the project for all periods analyzed.

### 6.1 *Assumed Roadway Improvements*

It is assumed that by 2025 several improvements will have been made to the roadway network. The improvements are based on the City of Modesto's "Draft Master Environmental Impact Report Update for the Urban Area General Plan." The project is not expected to participate in any of these projects.

#### **General-Plan Improvements**

The following roadway and intersection improvements in the project study area were recommended in the General Plan.

- Carpenter Road between Maze Boulevard and the site boundaries: upgrade to a 6-lane Principal arterial from a 2-lane undivided arterial.
- Maze Boulevard throughout study area: upgrade from 2-lane State arterial to a 4-lane Principal Arterial.

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<sup>1</sup> This estimation process is known as a Furness calculation and produces balanced turning movement volumes that reflect as much as possible the actual turning patterns of the existing counts and that match the approach departure volumes of the future year forecasts.

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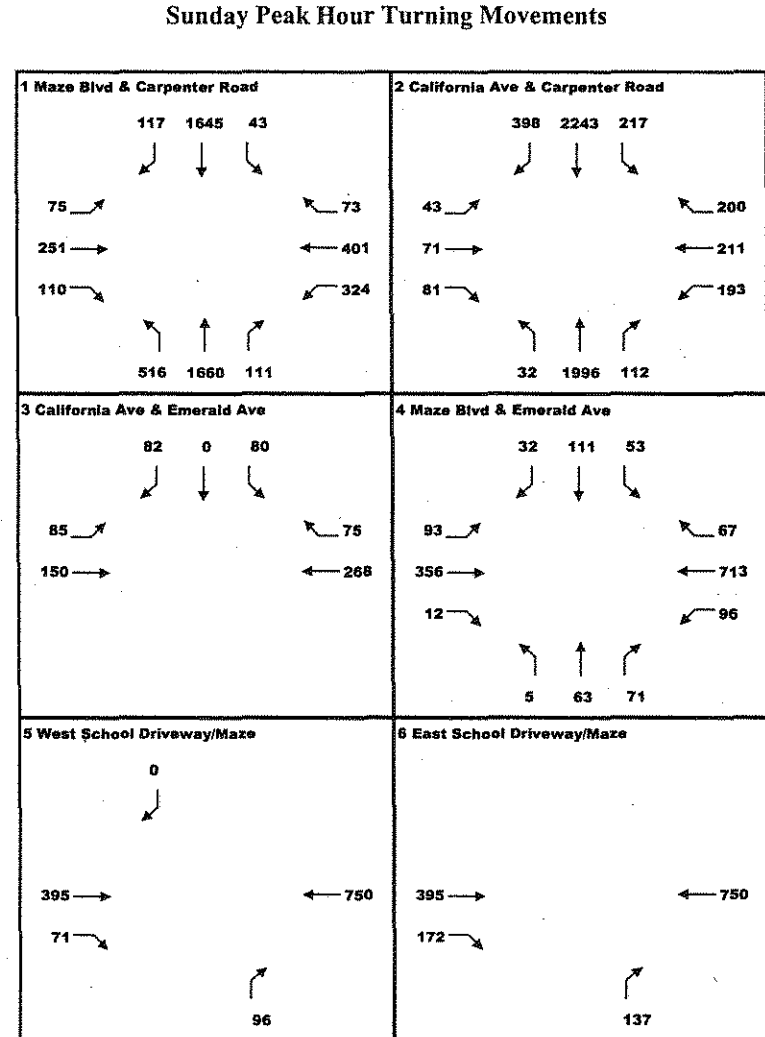
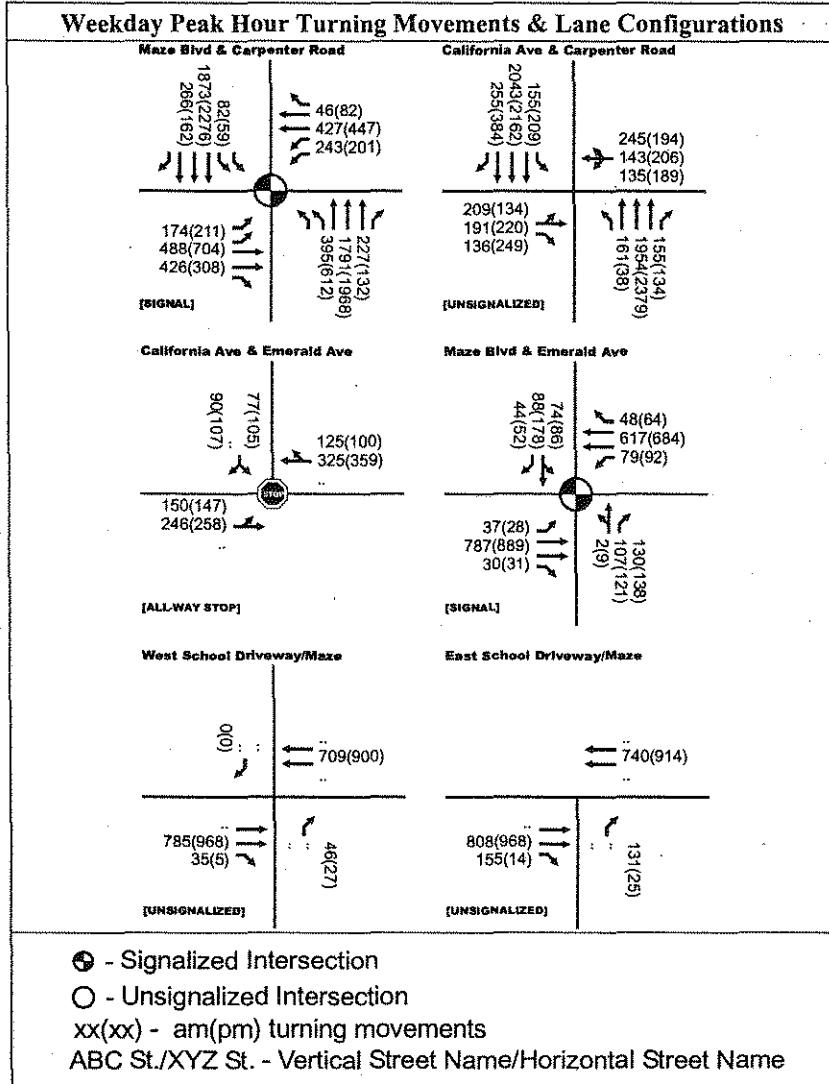
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The roadway improvements above impact the intersections of Carpenter Road/Maze Blvd, Carpenter Road/California Avenue, and Maze Blvd/Emerald Avenue. At major intersections, 6-lane principal arterials widen to include three through-lanes, two left-turn lanes, and one right-turn lane.

**Figure 7 – 2025 No Project Weekday and Sunday Peak Hour Turning Movements and Lane Configurations**



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The installation of a median on Maze Boulevard would prevent left turns in and out of the existing school driveways. As a result all turn to and from these driveways will be right turns. Volumes were derived by adding all inbound and outbound traffic and assigning the former to the eastbound right turn movement and the latter to the northbound right turn. This also results in U turns at Emerald Avenue and Carpenter Avenue as follows:

- At Carpenter Avenue the westbound left turn volume would increase to include:
  - 78 AM peak hour U-turns,
  - 14 PM peak hour U-turns, and
  - 156 Sunday peak hour U-turns
  
- At Emerald Avenue the eastbound left turn volume would increase to include:
  - 20 AM peak hour U-turns,
  - 12 PM peak hour U-turns, and
  - 87 Sunday peak hour U-turns

## 6.2 Intersection Level of Service (LOS) Analysis

The results of intersection LOS analysis for the 2025 base case are presented in Table 6. The intersection of South Carpenter Road and California Avenue operates unacceptably. With substantial delay on all minor movements.

**Table 6 – Levels of Service, 2025 No Project Conditions**

Intersection	Control <sup>1</sup>	AM Peak Hour		PM Peak Hour		Sunday Peak Hour	
		LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)
1. South Carpenter Rd & Maze Blvd	Signal (8-phase)	C	30.4	D	52.7	C	26.0
2. South Carpenter Rd & California Ave	2-Way STOP	F	OVFL(4)	F	OVFL(4)	F	OVFL(4)
NB Left		F	<u>112.8</u>	E	<u>41.0</u>	E	<u>43.5</u>
SB Left		F	<u>62.5</u>	F	OVFL(4)	F	OVFL(4)
EB Approach		F	OVFL(4)	F	OVFL(4)	F	OVFL(4)
WB Approach		F	OVFL(4)	F	OVFL(4)	F	OVFL(4)
3. Emerald Ave & California Ave	All-Way STOP	C	15.1	C	17.0	B	10.7
SB Approach		B	<u>10.9</u>	B	<u>12.1</u>	A	<u>9.7</u>
EB Approach		C	<u>15.6</u>	C	<u>17.4</u>	B	<u>10.3</u>
WB Approach		C	<u>16.3</u>	C	<u>18.8</u>	B	<u>11.4</u>
4. Emerald Ave & Maze Blvd	Signal (2-phase)	B	17.4	B	17.6	B	20.0
5. West Elementary School Access (Maze Boulevard)	1-Way STOP	A	0.3	A	0.2	A	0.7
NB Approach		B	<u>11.8</u>	B	<u>12.6</u>	B	<u>10.2</u>
6. East Elementary School Access (Maze Boulevard)	1-Way STOP	A	1.0	A	0.2	A	1.0
NB Approach		B	<u>13.4</u>	B	<u>12.6</u>	B	<u>10.3</u>

<sup>1</sup> Sig = signalized

<sup>2</sup> Weighted average delay

<sup>3</sup> LOS = Level of Service

<sup>4</sup> OVFL = Overflow Delay in excess of 120 seconds

### **6.3**      *Signal Warrant Analysis*

A signal warrant analysis was performed at the unsignalized intersections in the study area and the results of the analysis indicate that the intersection of Carpenter Road/California Ave (intersection #2) would meet warrants during all peak periods. This is a background condition and is not a project impact.



**7. 2025 WITH PROJECT TRAFFIC CONDITIONS**

For the 2025 with project scenario, project traffic generation was added to the base 2025, No Project volumes identified in Section 6. The cumulative traffic volumes estimated for each peak period are shown in Figure 8.

**7.1 Intersection Level of Service (LOS) Analysis**

Table 7 presents a summary of intersection LOS for the 2025 scenario, with project traffic added to the build out traffic volumes. The intersection of California Avenue and Carpenter Road would continue to operate unacceptably with the addition of project traffic. This is not a project impact. All other intersections would continue to operate acceptably during the 2025 plus Project scenario.

**Table 7 – 2025 plus Project Conditions Intersection Levels of Service**

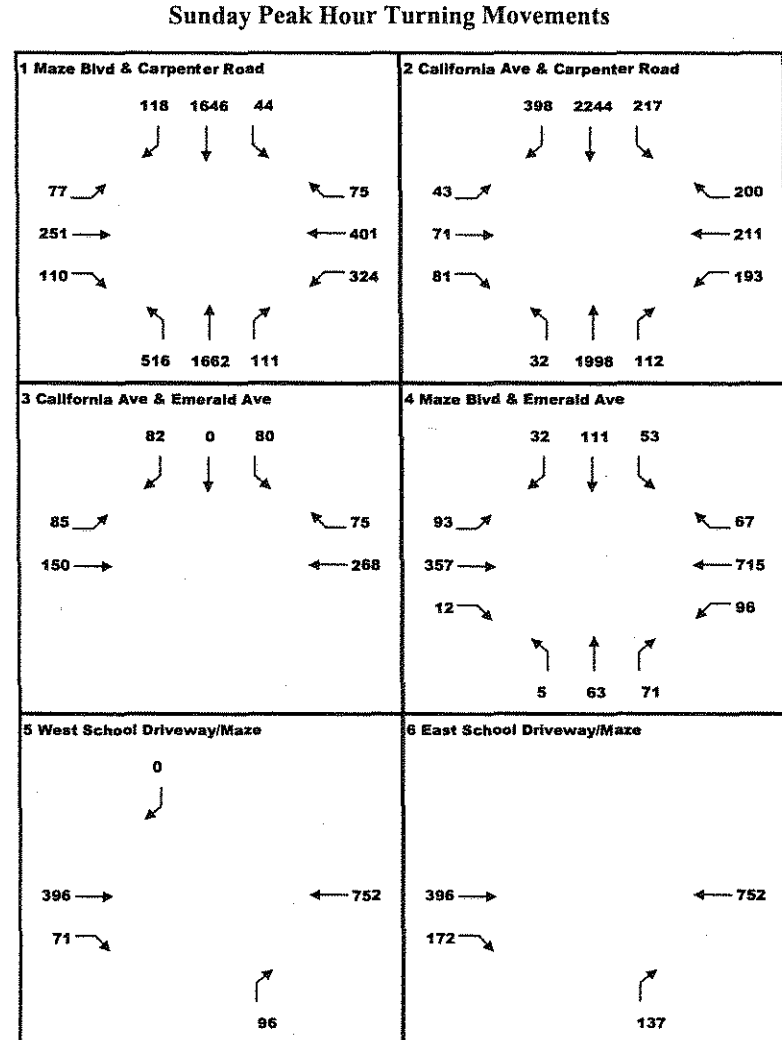
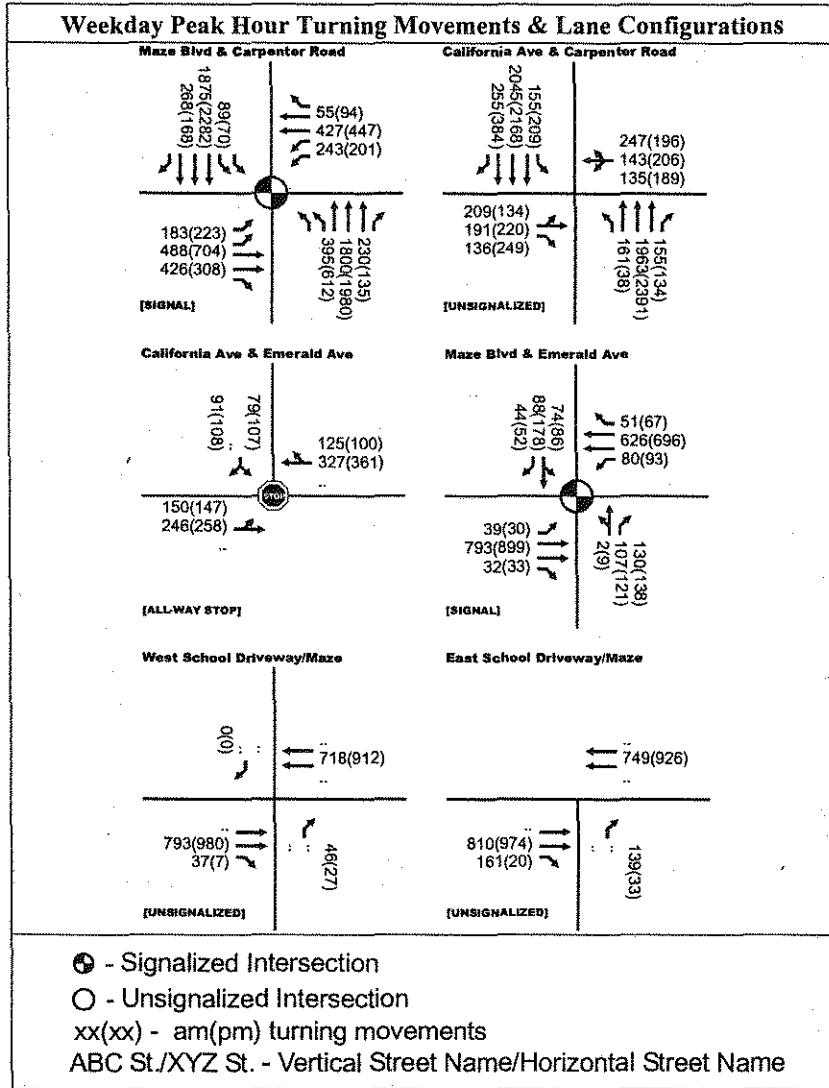
Intersection	Control <sup>1</sup>	AM Peak Hour		PM Peak Hour		Sunday Peak Hour	
		LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)	LOS <sup>2</sup>	Delay <sup>3</sup> (secs/veh)
1. South Carpenter Rd & Maze Blvd	Signal (8-phase)	C	30.7	D	53.0	C	26.0
2. South Carpenter Rd & California Ave	2-Way STOP	F	OVFL(4)	F	OVFL(4)	F	OVFL(4)
NB Left		<u>F</u>	<u>113.5</u>	<u>E</u>	<u>41.3</u>	<u>E</u>	<u>43.6</u>
SB Left		<u>F</u>	<u>64.0</u>	<u>F</u>	OVFL(4)	<u>F</u>	OVFL(4)
EB Approach		<u>F</u>	OVFL(4)	<u>F</u>	OVFL(4)	<u>F</u>	OVFL(4)
WB Approach		<u>F</u>	OVFL(4)	<u>F</u>	OVFL(4)	<u>F</u>	OVFL(4)
3. Emerald Ave & California Ave	All-Way STOP	C	15.2	C	17.2	B	10.7
SB Approach		<u>B</u>	<u>10.9</u>	<u>B</u>	<u>12.2</u>	<u>A</u>	<u>9.7</u>
EB Approach		<u>C</u>	<u>15.7</u>	<u>C</u>	<u>17.6</u>	<u>B</u>	<u>10.3</u>
WB Approach		<u>C</u>	<u>16.5</u>	<u>C</u>	<u>19.1</u>	<u>B</u>	<u>11.4</u>
4. Emerald Ave & Maze Blvd	Signal (2-phase)	B	17.4	B	17.6	B	19.9
5. West Elementary School Access (Maze Boulevard)	1-Way STOP	A	0.3	A	0.2	A	0.7
NB Approach		<u>B</u>	<u>11.8</u>	<u>B</u>	<u>12.7</u>	<u>B</u>	<u>10.2</u>
6. East Elementary School Access (Maze Boulevard)	1-Way STOP	A	1.0	A	0.2	A	1.0
NB Approach		<u>B</u>	<u>13.6</u>	<u>B</u>	<u>12.8</u>	<u>B</u>	<u>10.3</u>

<sup>1</sup> Sig = signalized  
<sup>2</sup> LOS = Level of Service  
<sup>3</sup> Weighted average delay  
<sup>4</sup> OVFL = Overflow Delay in excess of 120 seconds

**7.2 Signal Warrant Analysis**

A signal warrant analysis was conducted for the 2025 With Master Plan project Scenario. As with the 2025 No Project cumulative scenario at the intersection of Carpenter Road/California Avenue (intersection #2) meets peak hour signal warrants. This is not a project impact.

**Figure 8 – 2025 plus Project Weekday and Sunday Peak Hour Turning Movements and Lane Configurations**



**8. Roadway Segments Analysis**

The results of the daily roadway LOS analysis for each scenario are presented in Table 8. Under existing conditions the link on Carpenter Road south of Maze Boulevard operates unacceptably at LOS E. The project would not add five percent to the volume and therefore would not add 0.05 to the v/c ratio so there is no project impact. With build-out of general plan improvements, no link would operate in the cumulative 2025 scenarios with or without the project.

**Table 8 – Daily Roadway LOS**

Roadway	Where	Classification	Lanes	Daily Volume	Change in V/C	LOS
<b>Existing Conditions</b>						
Carpenter Rd	North of Maze Blvd.	Major Non-State Roadway	4	23,788	-	D
Carpenter Rd	South of Maze Blvd.	Uninterrupted Highway	2	22,637	-	<u>E</u>
California Ave	East of Carpenter Rd	Other signalized Roadway	2	3,288	-	C
<b>Background Conditions</b>						
Carpenter Rd	North of Maze Blvd.	Major Non-State Roadway	4	24,288	2.1%	D
Carpenter Rd	South of Maze Blvd.	Uninterrupted Flow Highway	2	22,863	1.0%	<u>E</u>
California Ave	East of Carpenter Rd	Other signalized roadway	2	3,354	2.0%	C
<b>Background plus Project Conditions</b>						
Carpenter Rd	North of Maze Blvd.	Major Non-State Roadway	4	24,308	Less than 0.1 %	D
Carpenter Rd	South of Maze Blvd.	Uninterrupted Flow Highway	2	22,867	Less than 0.1 %	<u>E</u>
California Ave	East of Carpenter Rd	Other signalized Roadway	2	3,354	Less than 0.1 %	C
<b>2025 No Project Conditions</b>						
Carpenter Rd	North of Maze Blvd.	Major Non-State Roadway	6	41,054	-	D
Carpenter Rd	South of Maze Blvd.	Major Non-State Roadway	6	45,218	-	D
California Ave	East of Carpenter Rd	Other signalized Roadway	2	8,747	-	D
<b>2025 plus Project Conditions</b>						
Carpenter Rd	North of Maze Blvd.	Major Non-State Roadway	6	41,074	Less than 0.1 %	D
Carpenter Rd	South of Maze Blvd.	Major Non-State Roadway	6	45,222	Less than 0.1 %	D
California Ave	East of Carpenter Rd	Other signalized roadway	2	8,747	Less than 0.1 %	D

Maze Boulevard east of Carpenter Road is evaluated using the 2000 HCM Arterial LOS methodology. Table 9 summarizes the results of this analysis for each scenario. Under all scenarios the arterial segment on Maze Boulevard from Carpenter Road to Emerald Avenue operates acceptably except in the Cumulative No Project and With Project Conditions in the PM peak hour. This is a background condition and is not considered a project impact. Note that in the General Plan build-out, 2025 scenarios, Maze Boulevard is assumed to be a four lane minor arterial.

**Table 9 - Maze Boulevard Arterial Analysis**

Scenario	Eastbound		Westbound	
	Travel Speed (mph)	Arterial LOS	Travel Speed (mph)	Arterial LOS
<b>Existing</b>				
AM	26.7	C	21.0	D
PM	24.0	C	20.6	D
Sunday	27.9	C	21.6	D
<b>Background</b>				
AM	26.7	C	21.0	D
PM	24.0	C	20.6	D
Sunday	27.9	C	21.6	D
<b>Background plus Project</b>				
AM	27.9	C	20.9	D
PM	24.7	C	20.3	D
Sunday	27.9	C	21.6	D
<b>2025 No Project</b>				
AM	25.6	C	19.7	D
PM	24.8	C	16.5	E
Sunday	24.0	C	18.0	D
<b>2025 plus Project</b>				
AM	25.6	C	19.7	D
PM	24.8	C	16.3	E
Sunday	24.0	C	18.0	D

**9. Left Turn Warrant Analysis**

Previous proposals for the project site included provisions for installation of exclusive left turn pockets at the existing east school driveway and at a future driveway to serve the new building. The current proposal does not include any changes along the frontage with Maze Boulevard and so no turn pockets are contemplated as part of the project. Caltrans has asked that an analysis be conducted to see whether a left-turn pocket is warranted at the intersection of the existing East School Driveway and Maze Boulevard. This is presented in Table 10, based on the guidelines suggested by the American Association of State Highway Officials (AASHTO).

**Table 10 - Left Turning Volumes & Pocket Recommendation Guidelines**

SCENARIO	Advancing Volume at East School Driveway				
	Opposing Volume	Through Volume	Left Turning Volume	Percent Left Turning	Left Turn Pocket Recommended?
Existing AM	397	640	78	12%	YES
Existing PM	797	343	14	4%	YES
Existing SUN	406	296	156	53%	YES
Background AM	410	649	78	12%	YES
Background PM	824	355	14	4%	YES
Background SUN	407	298	156	52%	YES
Background plus Project AM	410	649	84	13%	YES
Background plus Project PM	824	355	20	6%	YES
Background plus Project SUN	407	298	156	52%	YES

Source: A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials

As shown in Table 10 the guidelines recommend that a left turn pocket be installed to serve the existing conditions. Background and project traffic generation do not materially affect that finding. This is a baseline condition and not a project impact.

## 10. Site Circulation

Access to the proposed site would be through the existing St. Stanislaus elementary school driveways. The proposed project site design introduces a number of potentially significant impacts.

*Impact T1 – The proposed vehicle connection between the new church site circulation system and the existing east elementary school parking lot imposes potentially awkward turning movements.*

The connection to the new site would be at the southeast corner of the existing elementary school parking lot. The site plan indicates that the proposed major perimeter circulation aisle would terminate at near the existing convent. To continue from the church perimeter aisle to the existing eastern school driveway vehicles would need make a quick left and right turn to complete a “dog-leg” or “jog” roughly 40 feet to the west before proceeding north. Given the amount of traffic that may be making such a maneuver this constitutes a potentially significant impact.

*Mitigation T1 – the landscape and gravel road between the northern terminus of the new Church circulation aisle and the existing driveway shall be improved so that vehicles can travel between the existing east elementary school driveway and the church circulation aisle without making any turning movements. A raised crosswalk shall connect the pedestrian paths fronting the west side of the existing convent and the proposed church landscaped areas to moderate the speed of vehicles traveling between the existing school parking lot and the proposed church circulation system.*

This improvement would not require any modifications to the existing curb cuts along Maze Boulevard.

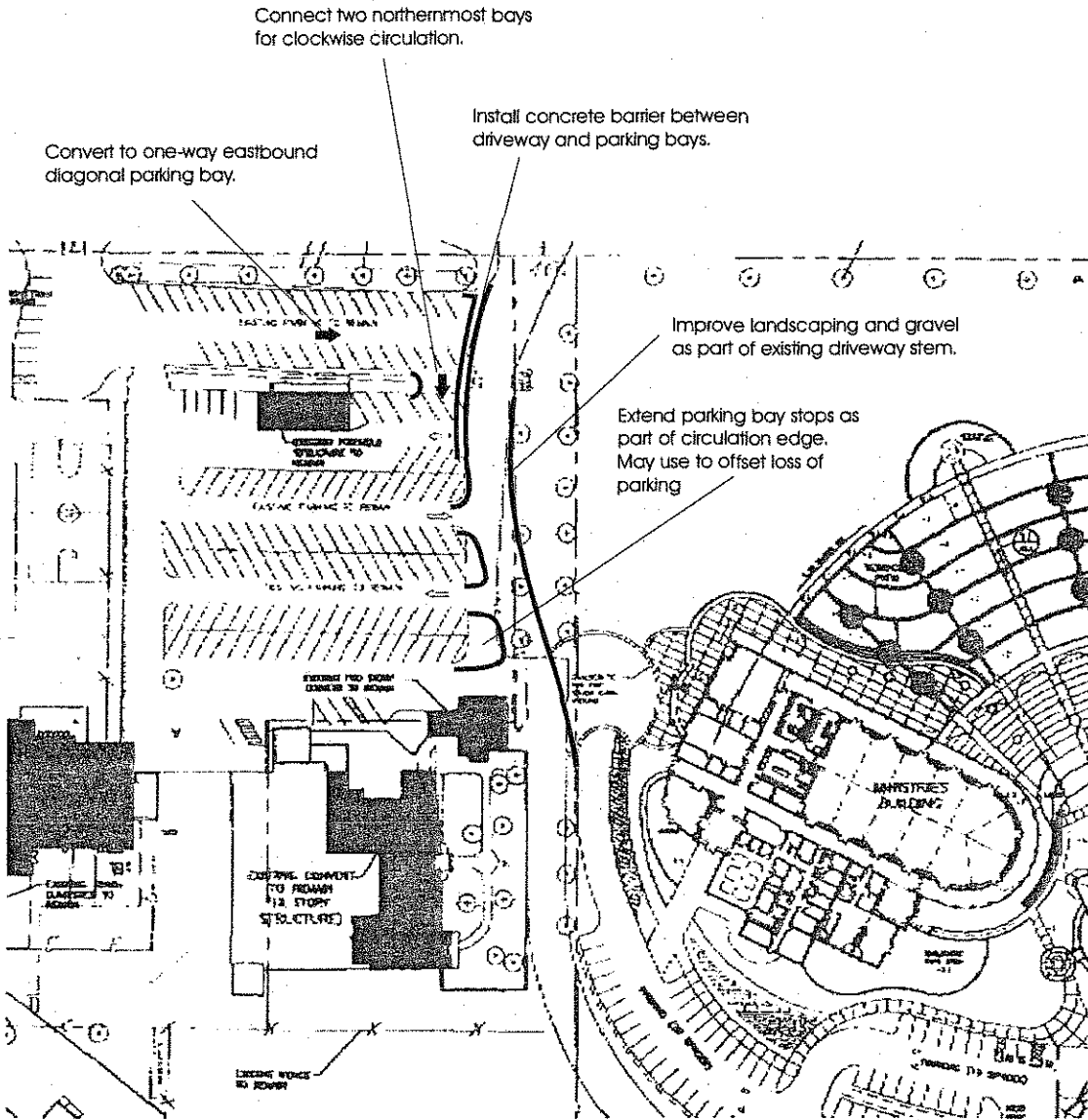
*Impact T2 – the aisle serving the northernmost bay of parking on the existing elementary school parking is set back by less than 50 feet from the eastbound lane of Maze Boulevard. This may create congestion at the point of entry for church traffic that may cause queues to spill onto Maze Boulevard.*

*Mitigation T2 – A concrete barrier strip (such as a concrete curb) shall divide the two (2) northernmost parking bays from the major north-south aisle serving the east elementary school driveway. This will create an uninterrupted driveway stem extending over 100 feet south from the existing curb cut on Maze Boulevard. The northernmost existing parking aisle shall be re-striped to allow only eastbound travel with corresponding diagonal stalls on both sides. The existing northern two aisles shall be connected just west of the barrier strip allowing clockwise circulation between the two locations*

This will result in the loss of roughly five parking stalls. Parking loss may be offset by extending the southernmost two parking bays to form the west edge of the new church circulation aisle (i.e. as it extends into the existing school parking lot).

Mitigation measures T1 and T2 are illustrated in Figure 9. These measures constitute minor improvements to the existing elementary school parking lot. Neither of these mitigation measures requires changes to the existing curb cut on Maze Boulevard.

Figure 9 – On-site Circulation mitigation Measures



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-128**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE MITIGATED NEGATIVE DECLARATION FOR THE GENERAL PLAN AMENDMENT, SPECIFIC PLAN AMENDMENT AND ANNEXATION FOR THE CLARATINA GOLF COURSE AND DRIVING RANGE SITE (SCH NO. 2002122117): APPROVAL OF THE “DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MODESTO AND SHELTER COVE COMMUNITY CHURCH”. (SHELTER COVE COMMUNITY CHURCH)**

WHEREAS, on February 25, 2003, the City Council of the City of Modesto adopted a Mitigated Negative Declaration for the General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (“Mitigated Negative Declaration”) (SCH No. 2002122117), and

WHEREAS, Shelter Cove Community Church has proposed a Development Agreement in conjunction with development of the northeast corner of Coffee Road and Claratina Avenue for a 106,415-square-foot church, said Development Agreement containing provisions relating to the obligation of the church to participate in the CFD to be formed for the future Hetch Hetchy Comprehensive Planning District and other provisions related to the provision of future infrastructure to the area, and

WHEREAS, Section 15162 of the CEQA Guidelines states that no new environmental review is required for a project that has been the subject of a previously approved Mitigated Negative Declaration providing certain findings can be made, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2005-02 (“Initial Study”) reviewed the proposed Development Agreement to determine whether the project is within the scope of the Mitigated Negative Declaration, and concluded that the proposed project is within the scope of the Mitigated Negative Declaration and will have no additional



significant effect on the environment that was not identified in the Mitigated Negative Declaration, and further, that no new circumstances surrounding the project have occurred that will require major revisions in the Mitigated Negative Declaration, and further that no new information has become available that will require major revisions in the Mitigated Negative Declaration, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 8, 2005, 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 Development Agreement, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Project is within the scope of the Mitigated Negative Declaration for the General Plan Amendment, Specific Plan Amendment, and Annexation for the Claratina Golf Course and Driving Range Site.
2. No substantial changes are proposed in the project which will require major revisions to the Mitigated Negative Declaration for the General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117).
3. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the Mitigated Negative Declaration for the General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site.
4. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated

Negative Declaration for the General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site was adopted, has become available.

5. The Initial Study, Environmental Assessment No. EA/C&ED 2005-02, provides the substantial evidence to support findings noted above.

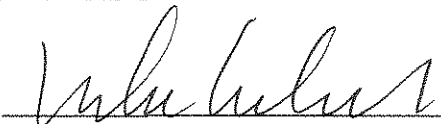
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST:   
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**Initial Study**  
**EA/C&ED 2005-02**

**City of Modesto**

**An Initial Study to Determine if the Proposed Project is Consistent with the Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117)**

**Initial Study C&ED No. 2005-02**

**For the proposed:**

**Development Agreement and Final Development Plan for Shelter Cove Community Church**

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

**1/14/05**

**City of Modesto  
Initial Study Checklist**

**I. PURPOSE**

On February 25, 2003, the Modesto City Council adopted a Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117). The project that was analyzed for this Mitigated Negative Declaration was a proposed 69,000-square-foot sanctuary and offices for Shelter Cove Community Church.

Subsequent to annexation of the site, Shelter Cove Community Church has applied for a Development Agreement and Final Development Plan to construct the church. The project is now proposed to be in two phases totaling 106,400 square feet at buildout, larger than was originally analyzed in the Mitigated Negative Declaration.

Section 15162 of the CEQA Guidelines states that no new environmental review will be required for a project if a Mitigated Negative Declaration has previously been prepared (in this instance, the Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site) provided the following findings can be made:

- A. No substantial changes are proposed in the project which will require major revisions of the Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117).
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Mitigated Negative Declaration.
- C. No new information, which was not known and could not have been known at the time the Mitigated Negative Declaration was adopted, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings for the current proposal for Shelter Cove Community Church.

**II. PROJECT DESCRIPTION**

- A. Title: Development Agreement and Final Development Plan for Shelter Cove Community Church
- B. Address or Location: the northeast corner of Coffee Road and Claratina Avenue.
- C. Applicant: Shelter Cove Community Church, P.O. Box 586, Salida, CA 95368
- D. City Contact Person: Steve Mitchell, Principal Planner

Department: Community and Economic Development Department  
Phone Number: (209) 577-5287  
E-mail address: smitchell@modestogov.com

- E. Current General Plan Designation(s): Residential (R)
- F. Current Zoning Classification(s): Specific Plan-Overlay (SP-O)
- G. Surrounding Land Uses:   North: Agriculture  
                                      South: Agriculture  
                                      East: Agriculture  
                                      West: Miniature golf course

H. Project Description:

This is an application for a Development Agreement and Final Development Plan to allow construction of a 106,415-square-foot church, with offices and Sunday-school classrooms on 17.4 gross acres located at the northeast corner of Coffee Road and Claratina Avenue. The project is proposed to be constructed in two phases: Phase One will be a 60,147-square-foot building housing a sanctuary, offices and Sunday-school classrooms, and Phase Two will consist of a larger sanctuary added to this building, bringing the total size to 106,415 square feet. The project proposes 406 parking spaces with Phase One, and an additional 243 spaces with Phase Two. The project proposes two driveways to Coffee Road, and an additional access to Claratina Avenue.

The Development Agreement contains the following provisions:

- The church's obligation to participate in the formation of the CFD for the Hetch Hetchy CPD;
- A prohibition on school uses without further environmental review and City approval;
- Future connections to master storm drainage and sewer facilities;
- Project fees;
- Well site dedication and reimbursement;
- Project contribution and reimbursement for the Coffee/Claratina traffic signal;
- Access from the property to the property to the east;

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

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

**A. X Within the Scope** - The project is within the scope of the Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117) and no new environmental document is required, per Section 15162 of the CEQA Guidelines. The following items are found to be true:

1. No substantial changes are proposed in the project which will require major revisions of the Mitigated Negative Declaration for a General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117).
2. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Mitigated Negative Declaration.
3. No new information, which was not known and could not have been known at the time the Mitigated Negative Declaration was adopted, has become available which would require revisions to the Mitigated Negative Declaration.

**B.      Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the previous Mitigated Negative Declaration. A mitigated negative declaration will be prepared for the project.

**C.      EIR Required** - On the basis of the above determinations, the project is not within the scope of the previous Mitigated Negative Declaration. An EIR will be prepared for the project.

Steve Mitchell  
Project Manager

Principal Planner  
Title

January 14, 2005  
Date

#### **IV. ENVIRONMENTAL ANALYSIS**

This Initial Study, in accordance with Section 15162 of the CEQA Guidelines, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the previous Mitigated Negative Declaration, whether circumstances under which the project is being undertaken have changed and whether new information has arisen since the Mitigated Negative Declaration was adopted, any of which might require revisions to the Mitigated Negative Declaration. The Initial Study thereby documents whether or not the project is "within the scope" of the Mitigated Negative Declaration.

Pursuant to CEQA Guidelines Section 15162, no new environmental document are necessary for projects that are determined to be within the scope of the previous Mitigated Negative Declaration.

The previous Mitigated Negative Declaration organizes its analysis of environmental impacts into twenty one subject areas. The following analysis is based on the impact analyses contained in Mitigated Negative Declaration. For ease of cross-reference, the sections are numbered in the same order as the analyses in the Negative Declaration.

##### **A. TRAFFIC AND CIRCULATION**

###### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Traffic and Circulation effects are analyzed on pages 7-9 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified the following significant traffic and circulation impacts that were mitigated to less than significant with mitigation incorporated in the project:

Effect: Increased traffic which is substantial in relation to the existing traffic load and capacity of the street system.

###### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

The following Traffic and Circulation mitigation measures were identified in the Mitigated Negative Declaration for the development of the project site:

- a. Concurrent with redevelopment of the project site as a church, the Coffee Road/Claratina Expressway intersection signal will be funded by the project.
- b. At the time of any redevelopment of the project site, dedication of right-of-way to City standards shall be provided, in the event the previously dedicated right-of-way does not meet the current adopted City standard for Coffee Road and the Claratina Expressway. Along Coffee Road, improvement to City standards will also be provided.
- c. At the time of preparation of a site plan for review and processing on the project site, a Site Access Study, consistent with the General Plan requirement contained in Chapter V(B)(7)(c) shall be prepared. The Site Access Study will also evaluate how to provide adequate pedestrian and vehicular access to the balance of the Hetch



Hetchy CPD, which may include the reservation of road right-of-way and/or granting of vehicular/pedestrian cross access rights, to make certain that the project properly integrates with the balance of the Hetch Hetchy CPD, at the time of its development.

Discussion:

- a. The City of Modesto will be installing a traffic control device (an interim traffic signal or interim roundabout) at the Coffee Road/Claratina Avenue intersection in conjunction with the extension of Claratina Avenue to Oakdale Road. The City Public Works Department have analyzed the impacts of these interim traffic control measures, and have determined that they will provide an equivalent Level of Service as the permanent traffic signal for the first phase of the project. The City expects that the permanent traffic signal will be installed prior to the second phase of the project, but if that has not occurred, the Development Agreement contains a provision that would require the installation of the permanent traffic signal, unless a supplemental CEQA analysis is provided that demonstrates that the permanent traffic signal is not required and/or the required LOS may be achieved through alternate means.
- b. This mitigation measure will be applied as a condition of approval of the Final Development Plan.
- c. The applicant has submitted a Site Access Study prepared by KD Anderson Transportation Engineers ("Traffic Access Assessment for Shelter Cove Community Church Master Plan Modesto, CA" dated June 22, 2004, copies of which are available in the offices of the Community and Economic Development Department), that satisfies this mitigation measure. The City's Public Works Department has reviewed the Assessment and agrees with its conclusions.

### **3. Changes in the Proposed Project**

As noted in the project description, the current proposal is larger (106,415 square feet vs. the 69,000 square feet analyzed in the Mitigated Negative Declaration). The applicant has submitted a Site Access Study prepared by KD Anderson Transportation Engineers ("Traffic Access Assessment for Shelter Cove Community Church Master Plan Modesto, CA" dated June 22, 2004, copies of which are available in the offices of the Community and Economic Development Department), in accordance with Mitigation Measure 2.a. above. In addition to addressing the provisions of this mitigation measure, the Site Access Assessment analyzed the potential for increased traffic impacts due to the increased size of the project. The Assessment concludes that the current project would add only 19 P.M. peak-hour trips over what was analyzed in the Mitigated Negative Declaration, and concludes that the resulting Levels of Service on surrounding intersections would remain at or above LOS "D", which is the City's standard for significant traffic impacts, with a right-in access to Claratina Avenue. The Analysis has been reviewed by the City's Traffic Engineering section, and they concur with its findings.

#### **4. Changes in Circumstances Surrounding the Project**

The City's Public Works Department has been in the process of preparing the engineering work for extending Claratina Avenue from Coffee Road to Oakdale Road. In conjunction with that work, it has come to light that a major natural gas transmission line in Claratina Avenue would prevent the installation of the traffic signal at Coffee Road and Claratina Avenue in its permanent location, until arrangements are made to move the line, which the Public Works Department estimates will take several years.

Consequently, the City will be installing either an interim roundabout or an interim traffic signal at the intersection until such time as the gas line is relocated. The interim signal or roundabout would be installed by the City in conjunction with the extension of Claratina Avenue from Coffee Road to Oakdale Road, which is scheduled to begin sometime this year. This will relieve the church from their obligation to install the traffic signal, at least for the first phase of their development.

The Public Works Department has conducted an LOS analysis, and has concluded that either interim traffic control device will provide an equivalent LOS, at least until the church constructs their second phase.

By then, the Public Works Department expects that the gas main will be relocated, allowing for the installation of the permanent traffic signal. However, if that has not occurred, then the Development Agreement provides that the permanent traffic signal will need to be installed, unless additional traffic and CEQA analyses may be conducted to determine whether alternative or lesser improvements to the intersection will achieve an acceptable LOS, given the conditions at that time. Therefore, no significant changes are required in the Mitigated Negative Declaration.

#### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

See Section 4, above.

### **B. AIR QUALITY**

#### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Air Quality effects are analyzed on pages 14-15 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant Air Quality impacts.

#### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No Air Quality mitigation measures were identified by the Mitigated Negative Declaration for the project beyond those required by the General Plan Master EIR.

### **3. Changes in the Proposed Project**

As noted above, the current proposal is larger (106,415 square feet vs. the 69,000 square feet analyzed in the Mitigated Negative Declaration). However, because the traffic impacts are not significantly greater, there would be no significant increase in air quality impacts due to the larger project.

### **4. Changes in Circumstances Surrounding the Project**

Since the time that the Mitigated Negative Declaration was adopted, the San Joaquin Valley Air Pollution Control District's non-attainment status for ozone has been downgraded from "severe" to "extreme". The General Plan MEIR, which the Mitigated Negative Declaration was tiered off of, identified that buildout of General Plan would result in significant, unavoidable impacts to air quality, and the City Council adopted a statement of overriding considerations in certifying the MEIR. At this time no new control measures have been adopted by the APCD as a result of this redesignation, and consequently no new measures are available to impose on the project beyond those required by the MEIR. Therefore, the changes in circumstances would not result in any significant changes in the Mitigated Negative Declaration.

### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

See Section 4, above.

## **C. NOISE**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Noise impacts are analyzed on pages 15-17 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified the following significant noise impacts that were mitigated to less than significant with mitigation incorporated in the project:

Effect: Exposure of persons or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Effect: A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

The following Noise mitigation measures were identified in the Mitigated Negative Declaration for the development of the project site:

- a. At the time of submittal of a site plan, a noise study prepared by a qualified acoustical consultant shall be prepared if any church structures are proposed within

the future 70 Ldn noise contour. The acoustical study shall provide measures to reduce the interior noise levels to 55 Ldn or below for any church structures falling within the 70 Ldn noise contour, consistent with the Master EIR requirements (Table 3-2 on page IV-3-8).

- b. All construction contracts shall require construction equipment, fixed and mobile, to be equipped with properly operating and maintained mufflers and that no single piece of equipment shall produce a noise level exceeding 85 DBA at any point outside the Specific Plan area.

Discussion:

- a. The 70 Ldn contour is located 74 feet from the centerline of Claratina Avenue, per Table V-3-5 of the General Plan MEIR. The project does not propose to locate any buildings within this distance, so no acoustic study is needed.
- b. This mitigation measure will be applied as a condition of approval of the Final Development Plan.

**3. Changes in the Proposed Project**

Since the increased size of the project will not result in any significant increases in traffic impacts, there will be no significant increase in noise impacts resulting from the project that would require major revisions in the Mitigated Negative Declaration. As noted above, the mitigation measures imposed by the Mitigated Negative Declaration will be applied to the project.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to noise impacts.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to noise impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**D. AGRICULTURAL LANDS**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Agricultural land impacts are analyzed on pages 17-18 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified the following significant agricultural land impacts that were mitigated to less than significant with mitigation incorporated in the project:

Effect: Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use.

## **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

The following agricultural land mitigation measures were identified in the Mitigated Negative Declaration for the development of the project site:

- a. The project should be prepared to accept the inconveniences associated with the adjacent agricultural operations, such as noise, odors, flies, dust or fumes. Stanislaus County has determined that such inconveniences shall not be considered a nuisance if agricultural operations are consistent with accepted customs and standards.

### Discussion:

- a. This mitigation measure will be applied as a condition of approval of the Final Development Plan.

## **3. Changes in the Proposed Project**

Since the project will not involve any additional land not already analyzed by the Mitigated Negative Declaration, there are no additional agricultural impacts resulting from the project that would require revisions in the Mitigated Negative Declaration. As noted above, the mitigation measures imposed by the Mitigated Negative Declaration will be applied to the project.

## **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to agricultural impacts.

## **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to agricultural impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **E. WATER SUPPLY**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Water supply effects are analyzed on page 19 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant water supply impacts.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No water supply mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

Public Works has analyzed the increased size of the project, and has determined that the project will not create any significant increase in the demand for water supplies. Therefore, there are no changes needed to the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

Recent Water Supply Assessments prepared by the City of Modesto indicate that the City has a sufficient guaranteed water supply to serve new development only until approximately 2020. However, the church's contribution to this impact is insignificant (less than 1%). Therefore, no further changes are need to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

See Section 4, above.

**F. SANITARY SEWER SERVICES**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Sanitary sewer supply effects are analyzed on page 20 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant sanitary sewer supply impacts.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No sanitary sewer supply mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

Public Works has analyzed the increased size of the project, and has determined that the project will not create any significant increase in the demand for sanitary sewer service. Therefore, there are no changes needed to the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

The City has recently determined that wastewater flow volumes may exceed at certain times of year the City's ability to dispose of them through discharge into the San Joaquin River or by land disposal. The City is working to address this issue with both short-term and long-term solutions. The project's contribution to this impact, however, is insignificant (less than 1%), so no changes are needed to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

See Section 4, above.

**G. SENSITIVE WILDLIFE AND PLANT HABITAT**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Wildlife and plant habitat effects are analyzed on pages 21-22 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant wildlife and plant habitat impacts.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No wildlife or plant habitat mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

Since the project will not involve any additional land not already analyzed by the Mitigated Negative Declaration, there are no additional wildlife or plant habitat impacts resulting from the project that would require revisions in the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to wildlife or plant habitat impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to wildlife or plant habitat impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **H. ARCHAEOLOGICAL OR HISTORICAL SITES**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Archaeological and historic site effects are analyzed on pages 14-15 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant archaeological or historic site impacts.

### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No archaeological or historic site mitigation measures were identified by the Mitigated Negative Declaration for the project.

### **3. Changes in the Proposed Project**

Since the project will not involve any additional land not already analyzed by the Mitigated Negative Declaration, there are no additional archaeological or historic site impacts resulting from the project that would require revisions in the Mitigated Negative Declaration.

### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to archaeological or historic site impacts that would require revisions to the Mitigated Negative Declaration.

### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to archaeological or historical site impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **I. FLOODING AND WATER QUALITY**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Flooding and water quality impacts are analyzed on pages 23-25 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified the following significant flooding and water quality impacts that were mitigated to less than significant with mitigation incorporated in the project:

Effect: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.



## **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

The following flooding and water quality mitigation measures were identified in the Mitigated Negative Declaration for the development of the project site:

- a. On-site stormwater storage shall be provided consistent with City standards for a Commercial Site.
- b. The project storm drainage facilities shall provide for an outfall connection in the Claratina Expressway, to be connected at such time as the Master Storm Drainage facilities become available for use.

### Discussion:

- a. This mitigation measure will be applied as a condition of approval of the Final Development Plan.
- b. This mitigation measure will be applied as a condition of approval of the Final Development Plan.

## **3. Changes in the Proposed Project**

Although the larger project will result in an increase in impermeable surfaces and a consequent increase in runoff, this will be adequately dealt with in the on-site storm drainage facilities that will be required to conform to City standards. Therefore, no revisions are required in the Mitigated Negative Declaration.

## **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to flooding and water quality impacts that would require revisions to the Mitigated Negative Declaration.

## **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to flooding and water quality impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **J. STORM DRAINAGE**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Storm drainage impacts are analyzed on pages 25-26 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified the following significant

storm drainage impacts that were mitigated to less than significant with mitigation incorporated in the project:

Effect: 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 effect.

## **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

The following storm drainage mitigation measures were identified in the Mitigated Negative Declaration for the development of the project site:

Same as mitigation measures for flooding and water quality.

### Discussion:

These mitigation measures will be applied as a condition of approval of the Final Development Plan.

## **3. Changes in the Proposed Project**

Although the larger project will result in an increase in impermeable surfaces and a consequent increase in runoff, this will be adequately dealt with in the on-site storm drainage facilities that will be required to conform to City standards. Therefore, no revisions are required in the Mitigated Negative Declaration.

## **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to storm drainage impacts that would require revisions to the Mitigated Negative Declaration.

## **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to storm drainage impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

# **K. PARKS AND OPEN SPACE**

## **1. Significant Effects Identified in the Mitigated Negative Declaration**

Parks and open space effects are analyzed on pages 26-27 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant parks or open space impacts.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No parks or open space mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

Since churches do not create impacts to parks, and no designated open-space lands are being utilized by the church, there are no additional parks or open space impacts resulting from the project that would require revisions in the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to parks or open space impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to parks or open space impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**L. SCHOOLS**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Increased demand for school effects are analyzed on pages 27-28 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant increased demand for schools due to the project.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No increased demand for schools mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

Since churches do not create impacts to schools, there are no additional impacts to schools resulting from the project that would require revisions in the Mitigated Negative Declaration.

#### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to demand for schools impacts that would require revisions to the Mitigated Negative Declaration.

#### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to demand for schools impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

### **M. POLICE SERVICES**

#### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Increased demand for police services are analyzed on page 28 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant increased demand for police services due to the project.

#### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No increased demand for police services mitigation measures were identified by the Mitigated Negative Declaration for the project.

#### **3. Changes in the Proposed Project**

There are no additional significant impacts to police services resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

#### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to police services impacts that would require revisions to the Mitigated Negative Declaration.

#### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to police services impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **N. FIRE SERVICES**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Increased demand for fire services are analyzed on pages 28-29 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant increased demand for fire services due to the project.

### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No increased demand for fire services mitigation measures were identified by the Mitigated Negative Declaration for the project.

### **3. Changes in the Proposed Project**

There are no additional significant impacts to fire services resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to fire services impacts that would require revisions to the Mitigated Negative Declaration.

### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to fire services impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **O. SOLID WASTE**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Solid waste effects are analyzed on page 29 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant solid waste effects.

### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No solid waste mitigation measures were identified by the Mitigated Negative Declaration for the project.

### **3. Changes in the Proposed Project**

There are no additional significant solid waste impacts resulting from the increased size

of the project that would require revisions in the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to solid waste impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to solid waste impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**P. HAZARDOUS MATERIALS**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Hazardous materials effects are analyzed on pages 30-31 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant hazardous materials effects.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No hazardous materials mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

There are no additional significant hazardous materials impacts resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration, as churches are not a significant generator of hazardous wastes.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to hazardous materials impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to hazardous materials impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**Q. LANDSLIDES AND SEISMIC ACTIVITY**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Landslides and seismic activity effects are analyzed on pages 31-32 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant landslide or seismic activity effects.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No landslide or seismic activity mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

There are no additional landslide or seismic activity impacts resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to landslide or seismic activity impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to landslide or seismic activity impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**R. ENERGY AND MINERAL RESOURCES**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Energy and mineral resources effects are analyzed on pages 32-33 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant energy or mineral resources effects.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No energy or mineral resources mitigation measures were identified by the Mitigated Negative Declaration for the project.

### **3. Changes in the Proposed Project**

There are no additional significant energy or mineral resources impacts resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to energy or mineral resources impacts that would require revisions to the Mitigated Negative Declaration.

### **5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to energy or mineral resources impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## **S. PLANNING AND LAND USE**

### **1. Significant Effects Identified in the Mitigated Negative Declaration**

Planning and land use effects are analyzed on pages 33-34 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant planning or land use effects.

### **2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No planning or land use mitigation measures were identified by the Mitigated Negative Declaration for the project.

### **3. Changes in the Proposed Project**

There are no additional significant planning or land use impacts resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

### **4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to planning or land use impacts that would require revisions to the Mitigated Negative Declaration.



**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to planning or land use impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**T. POPULATION AND HOUSING**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Population and housing effects are analyzed on pages 34-35 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant population or housing effects.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No population or housing mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

There are no additional significant population or housing resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration, as churches do not impact housing or population.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to population or housing impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to population or housing impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

**U. AESTHETICS**

**1. Significant Effects Identified in the Mitigated Negative Declaration**

Aesthetics effects are analyzed on pages 35-36 of the Mitigated Negative Declaration. The Mitigated Negative Declaration identified no significant aesthetics effects.

**2. Mitigated Negative Declaration Mitigation Measures From the Mitigated Negative Declaration**

No aesthetics mitigation measures were identified by the Mitigated Negative Declaration for the project.

**3. Changes in the Proposed Project**

There are no additional significant aesthetics impacts resulting from the increased size of the project that would require revisions in the Mitigated Negative Declaration.

**4. Changes in Circumstances Surrounding the Project**

There have been no significant changes to circumstances under which the project is being undertaken have occurred in relation to aesthetics impacts that would require revisions to the Mitigated Negative Declaration.

**5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration**

No new information has become available related to aesthetics impacts that was not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

## V. MITIGATION MEASURES APPLIED TO THE PROJECT

### 1. Mitigated Negative Declaration Mitigation Measures Applied to the Project

The following Mitigation Measures from the previously adopted Mitigated Negative Declaration 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:**

- a. At the time of any redevelopment of the project site, dedication of right-of-way to City standards shall be provided, in the event the previously dedicated right-of-way does not meet the current adopted City standard for Coffee Road and the Claratina Expressway. Along Coffee Road, improvement to City standards will also be provided.

#### **Air Quality Measures:** (from General Plan Master EIR)

- a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
- b. All 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.
- c. 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.
- d. 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.)*
- e. 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.
- f. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

#### **Noise Measures:**

- a. All construction contracts shall require construction equipment, fixed and mobile, to be equipped with properly operating and maintained mufflers and that no single piece of equipment shall produce a noise level exceeding 85 DBA at any point outside the Specific Plan area.

**Agricultural Land Measures:**

- a. The project should be prepared to accept the inconveniences associated with the adjacent agricultural operations, such as noise, odors, flies, dust or fumes. Stanislaus County has determined that such inconveniences shall not be considered a nuisance if agricultural operations are consistent with accepted customs and standards.

**Water Supply Measures:**

None.

**Sanitary Sewer Service Measures:**

None.

**Sensitive Wildlife and Plant Habitat Measures:**

None.

**Archaeological or Historic Sites Measures:**

None.

**Flooding and Water Quality Measures:**

- a. On-site stormwater storage shall be provided consistent with City standards for a Commercial Site.
- b. The project storm drainage facilities shall provide for an outfall connection in the Claratina Expressway, to be connected at such time as the Master Storm Drainage facilities become available for use.

**Storm Drainage Measures:**

See Flooding and Water Quality Measures

**Parks and Open Space Measures:**

None.

**Schools Measures:**

None.

**Police Services:**

None.

**Fire Services:**

None.

**Generation of Solid Waste**

None.

**Generation of Hazardous Materials**

None.

**Potential for Landslides and Seismic Activity**

None.

**Energy and Mineral Resources**

None.

**Planning and Land Use**

None.

**Population and Housing**

None.

**Aesthetics**

None.

**2. Project-Specific Mitigation Measures**

None.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-129**

**A RESOLUTION APPROVING 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, PROPERTY LOCATED AT THE NORTHEAST CORNER OF SYLVAN AVENUE AND ROSELLE AVENUE. (SYLVAN VETERINARY HOSPITAL)**

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, Sylvan Veterinary Hospital filed an application to amend 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, on January 24, 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. 2005-07, recommended to the City Council approval of an amendment 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, said matter was considered by the City Council at a duly noticed public hearing on March 8, 2005, 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. 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 is consistent with the Modesto Urban Area General Plan and the Village One Specific Plan and to allow the City Council to consider and approve a Final Development Plan concurrent with the Specific Plan Amendment and Precise Plan Area No. 1 approvals is hereby amended to read as shown on Exhibit "A" attached hereto 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 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-04-005). 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 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

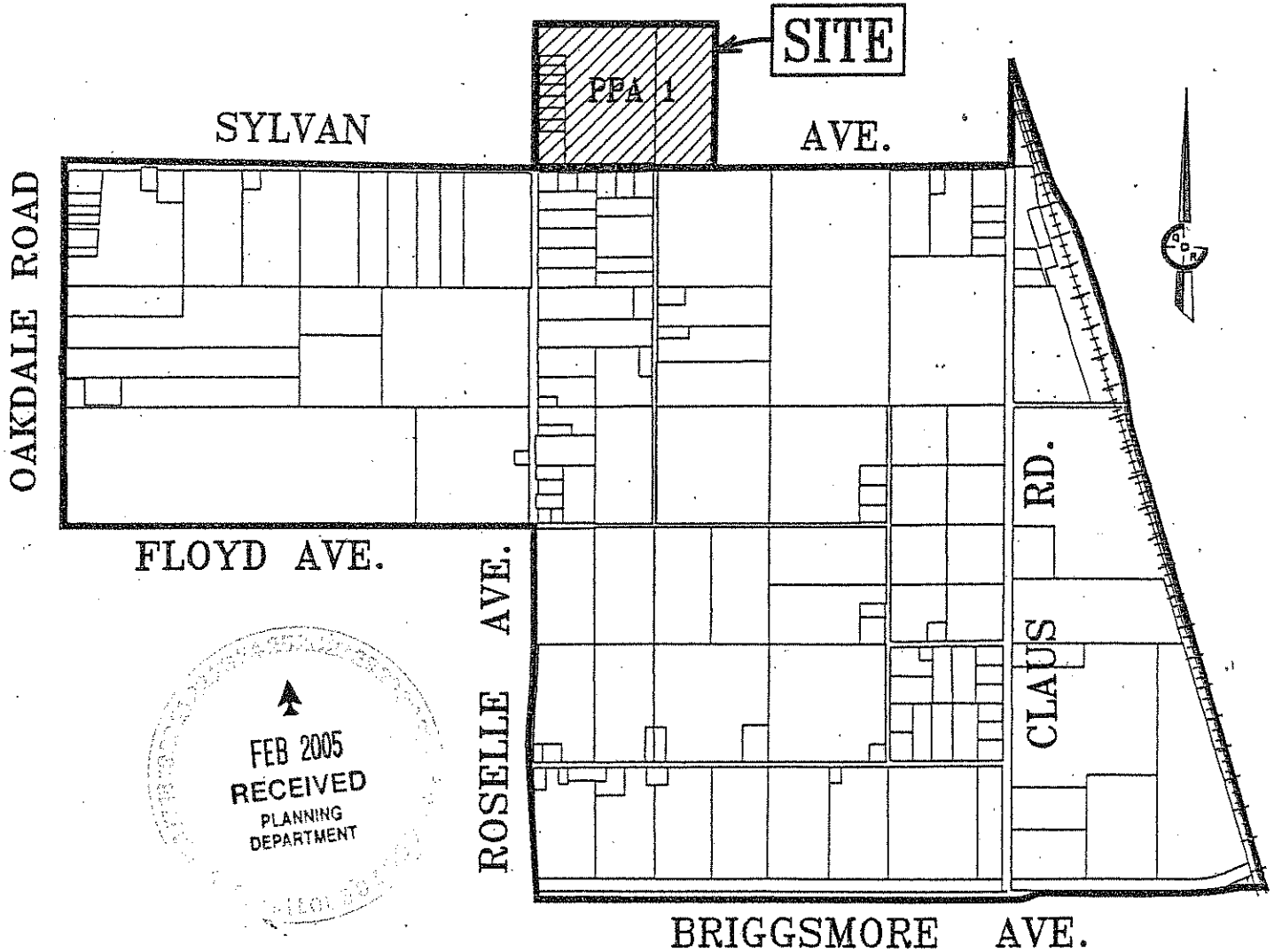
By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT "A"**  
**VILLAGE ONE SPECIFIC PLAN AMENDMENT NO. 19**

**Included in the City Council Packet**

# VILLAGE ONE

## SPECIFIC PLAN AMENDMENT



# PRECISE PLAN AREA NO. 1

## MODESTO, CALIFORNIA

DATE SUBMITTED:	_____
P.C. APPROVAL:	_____
C.C. APPROVAL:	_____



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**Village One  
Specific Plan Amendment  
Precise Plan Area 1**

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**Village One  
Specific Plan Amendment  
Precise Plan Area 1**

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**I. DESCRIPTION OF AMENDMENT**

This proposed amendment to the Village One Specific Plan to change the land use designations and parallel zoning classification to 12.3 acres within Sub-area A located at the northeast corner of Sylvan Avenue to Roselle Avenue. The Land Use Intensity of the south 8.3 acres of Sub-area A would change from Very Low Density Residential to Office. The Underlying Zone would change from R-1, Low Density Residential to P-O, Professional Office. This amendment would allow the owners of the existing Veterinary Clinic to expand the facility and existing residences to convert to office uses in the future.

The north 4 acres of Sub-area A would move into Sub-area B where the Land Use Intensity would change from Very Low Density Residential to High School and the Underlying Zone would remain R-1, Low Density Residential. This change is to reflect the high school site.

**II. PRESENTATION OF NEED FOR AMENDMENT**

Sylvan Avenue and Roselle Avenue are designated as Village One Minor Arterials. Currently along Roselle Avenue within Precise Plan Area No. 1 Sub-Area "A", are Sylvan Veterinary Clinic and seven single family residences on large deep lots (approximately 275 feet in depth).

The remaining area within PPA No. 1, Sub-Areas "B" and "C", are designated for a High School and Community Park.

The designated uses proposed for Sub-areas "B" and "C", prevent the consolidation of Sub-Area "A" with adjoining parcels for future residential development.

Reclassification of Sub-Area "A" to Office Zoning will allow the Veterinary Clinic to expand and existing residential units to convert to office uses in the future. These proposed uses would be more compatible along the minor arterials than the very Low Density Residential Units.

**III. CRITERIA FOR ANALYSIS OF AMENDMENT**

**A. Conformance with Specific Plan Guiding Principles**

The designation of this property for office uses would provide activities and services that are common to the Village as a whole.

**B. Consistency with Comprehensive Policies**

The Circulation Plan for Village One establishes a hierarchy of streets that serves as a conduit for through traffic around the community as well as locate access to individual neighborhoods. The hierarchy is established on the basis of roadway treatment as well as function. The function of the expressways and arterial streets is to carry through traffic, while the neighborhood connections and residential streets serve local movement within and through neighborhoods.

**Village One  
Specific Plan Amendment  
Precise Plan Area 1**

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Roselle Avenue is designated as a minor arterial and the proposed office land use would be more consistent with the Village One Community Design Policies.

**C. Compatibility with Existing Planned Land Uses**

Given the proposed development of Village One High School and Community Park in PPA No. 1 prevents the consolidation of existing business and residential uses along Roselle Avenue.

These parcels will be more compatible as office uses along the minor arterial.

**D. Traffic Impacts**

Limited shared access openings onto Roselle Avenue and reciprocal on-site access between properties shall be provided to lessen the adverse traffic impacts generated by individual residential driveways to the minor arterial. Site plans for specific properties should include graphic demonstrations that consideration has been given to the potential for development and/or compatibility on adjoining properties.

**E. Visual Impact**

Development of the parcels along Roselle Avenue as Office Uses instead of existing very Low Density Residential Uses, should not create any visual impacts either on site or off site that were not anticipated by the Village One Specific Plan.

**F. Preservation of Open Space**

The proposed rezone would not result in or change any of the open space policies of the Village One Specific Plan.

**G. Public Utilities / Facility Master Plans**

The proposed rezone would not result in or change any of the public utilities or facility master plans associated with the Village One Specific Plan.

**Village One  
Specific Plan Amendment  
Precise Plan Area 1**

---

**ATTACHMENTS**

**Comprehensive Policies**

**B. Land Use Designations (Page II-2a)**

**G. Land Use and Community Design Policies (Page II-38a)**

**Figure II-1, Page II-47 (Current & Proposed)**

**Precise Plan Area 1, Figure III-2, Pages III-9 & III-10 (Current & Proposed)**

**Figure III-2, Page III-11 (Current & Proposed)**

**Village One  
Specific Plan Amendment  
Precise Plan Area 1**

---

**CHAPTER II  
COMPREHENSIVE POLICIES**

**B. LAND USE DESIGNATIONS**

**2. Adoption of Land Use Designations**

**(J) Professional Office**

This designation is applied to allow for Veterinary Hospital and Clinic, Medical Offices, Urgent Care Center and other Professional Office Uses permitted and defined in the City's P-O Zoning District.

**1. *Development Standards***

Development Standards as described in the P-O Zone within the Modesto Municipal Code Title 10.

**2. *Approval Process.***

- Final Development Plan review and approval by the City Planning Commission as described within Chapter 4 of the Village One Specific Plan.
- Final Development Plan may be reviewed concurrently with the approval of Precise Plan 1 if adequate development information is submitted with the Precise Plan. The Final Development Plan is to be approved by the City Council.

**Village One  
Specific Plan Amendment  
Precise Plan Area No. 1**

---

**CHAPTER II  
COMPREHENSIVE POLICIES**

**G. LAND USE AND COMMUNITY DESIGN POLICIES**

14. Office – Overview

Provide a location within Village One to provide locations for Business and Professional Office, Institutions and related services on collector and major street.

15. Office – Land Use Policy

Uses consistent with the City's P-O Zone shall be permitted.

# Village One Specific Plan Amendment Attachments

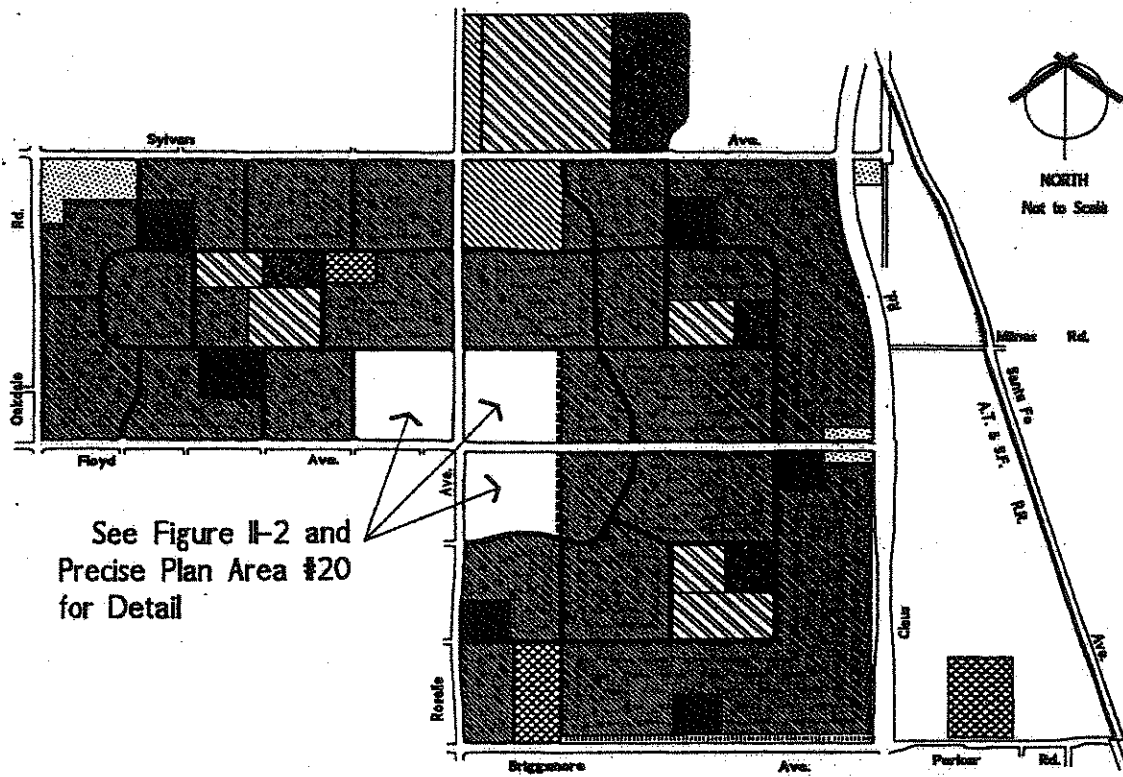
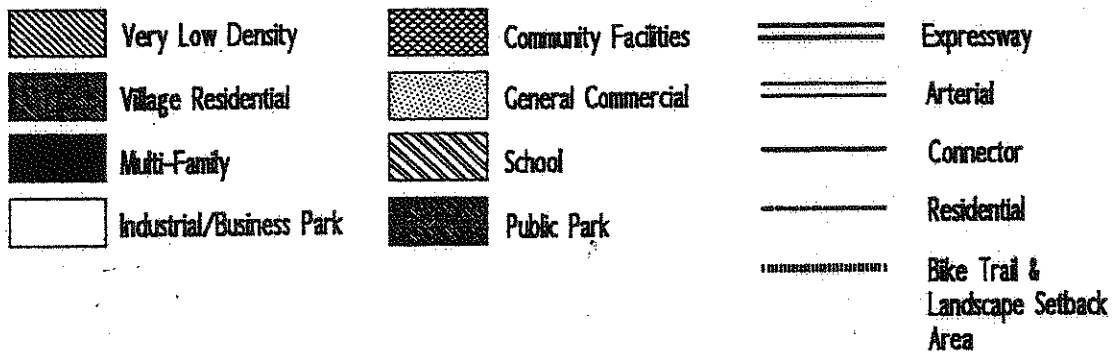


Figure II-1  
**LAND USE DIAGRAM  
(CURRENT)**



Note : School/Park sites are illustrative and may be reconfigured.

# Village One Specific Plan Amendment Attachments

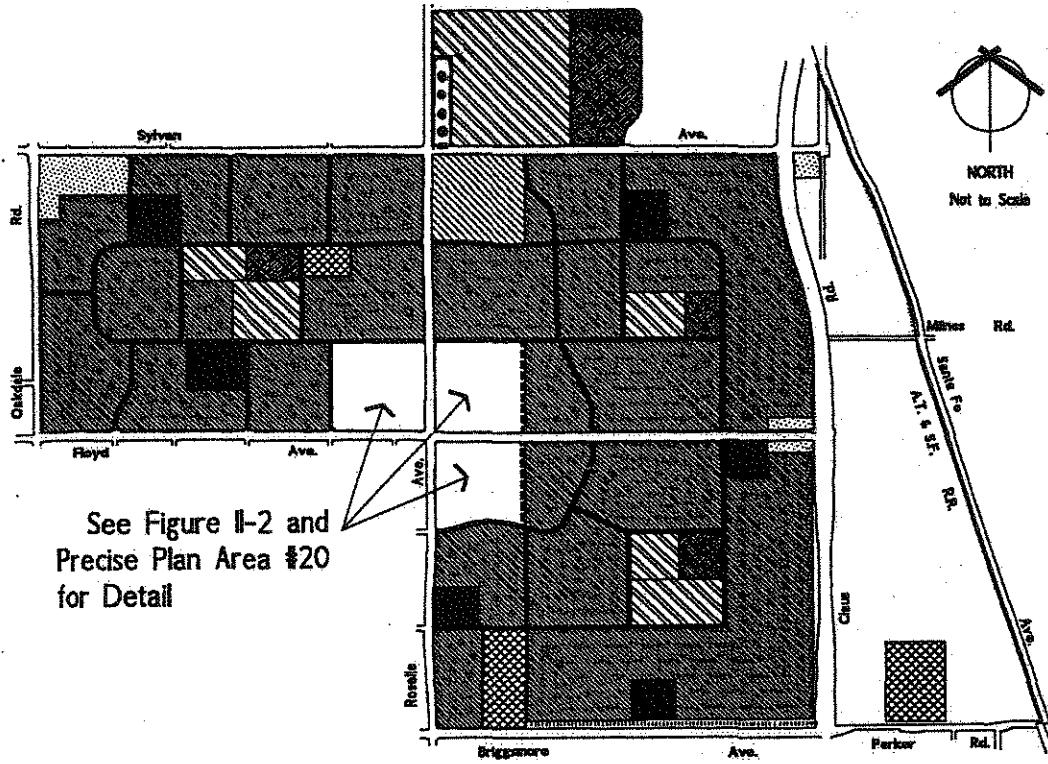
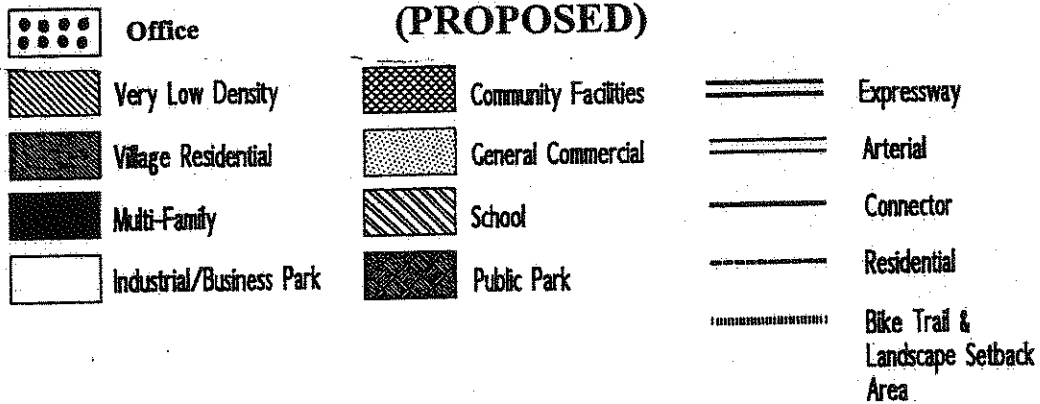


Figure II-1  
**LAND USE DIAGRAM  
(PROPOSED)**



Note : School/Park sites are illustrative and may be reconfigured.

**Village One  
Specific Plan Amendment  
Attachments**

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**CURRENT**

**PRECISE PLAN AREA #1  
(Figure III-2)**

1. **Acreege** 108.5 Acres (of which 0.0 acres are devoted to noise setback area)
2. **Land Use Intensity**
  - a. Very Low Density Residential 7.5 Acres (of which 0.0 acres are devoted to noise setback area)
  - b. High School 62.0 Acres
  - c. Community Park 39.0 Acres
3. **Special Considerations**

The Precise Plan shall incorporate the following policies:

- a. Within Sub-area "A", development regulations shall be established to accommodate up to 15 residential lots with ½-acre minimum lot size. This area may also be used for the future expansion of the adjacent high school.
- b. Within Sub-area "B", a high school site and buffer area shall be allowed.
- c. Within Sub-area "C" a community park site and buffer area shall be allowed.
- d. Within Sub-areas "B" and "C", a Master Plan for the high school and/or community park shall suffice for a Precise Plan. Precise boundaries shall be determined upon adoption of each respective Master Plan.
- e. "Prior to development of the proposed High School/Community Park, the City of Modesto shall establish a buffer area (open space easement or similar restriction) on the site for a distance of at least 350 feet from the property line in order to protect the health of the high school students and park users. Uses permitted within the buffer area shall be determined prior to the issuance of permits for construction. Requirements of this buffer area shall not conflict with Division 6 – Section 11501.1 and Division 7 of the California Food and Agricultural Code, as judged by the Stanislaus County Agricultural Commissioner."



**Village One  
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- f. The High School Master Plan shall incorporate features to minimize potential conflicts between residential lots located along Roselle Avenue and the south side of Sylvan Avenue. These features may include but are not limited to setbacks, service roads, or other means to separate school activity areas and residential structures.
- g. The High School Master Plan shall indicate conformance with Section IIE(2) regarding School standards and Section IIF(2) regarding Park standards.

**4. Principal Underlying Zone(s)**

- a. Sub-area "A" – R-1 Low Density Residential, (school facilities permitted per Policy II, C, 4) ½-acre minimum lot size.
- b. Sub-area "B" – R-1, Low Density Residential.
- c. Sub-area "C" – R-1, Low-Density Residential

**Village One  
Specific Plan Amendment  
Attachments**

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**PROPOSED**

**PRECISE PLAN AREA #1  
(Figure III-2)**

- |    |                                  |  |
|----|----------------------------------|--|
| 1. | <b><u>Acreage</u></b>            | 126.3 Acres (of which 0.0 acres are<br>(132.6 gross) devoted to noise setback<br>area) |
|    |                                  |  |
| 2. | <b><u>Land Use Intensity</u></b> |  |
| a. | Office                           | 8.3 Acres (of which 0.0 acres are<br>devoted to noise setback<br>area)                 |
| b. | High School                      | 73.0 Acres   |
| c. | Community Park                   | 45.0 Acres   |

3. **Special Considerations**

The Precise Plan shall incorporate the following policies:

- a. Within Sub-area "A", future development of existing Business and Residential Units to Business/Office Development via the City of Modesto P-O Zoning Regulations.
- b. Within Sub-area "B", a high school site and buffer area shall be allowed.
- c. Within Sub-area "C" a community park site and buffer area shall be allowed.
- d. Within Sub-areas "B" and "C", a Master Plan for the high school and/or community park shall suffice for a Precise Plan. Precise boundaries shall be determined upon adoption of each respective Master Plan.
- e. "Prior to development of the proposed High School/Community Park, the City of Modesto shall establish a buffer area (open space easement or similar restriction) on the site for a distance of at least 350 feet from the property line in order to protect the health of the high school students and park users. Uses permitted within the buffer area shall be determined prior to the issuance of permits for construction. Requirements of this buffer area shall not conflict with Division 6 – Section 11501.1 and Division 7 of the California Food and Agricultural Code, as judged by the Stanislaus County Agricultural Commissioner."

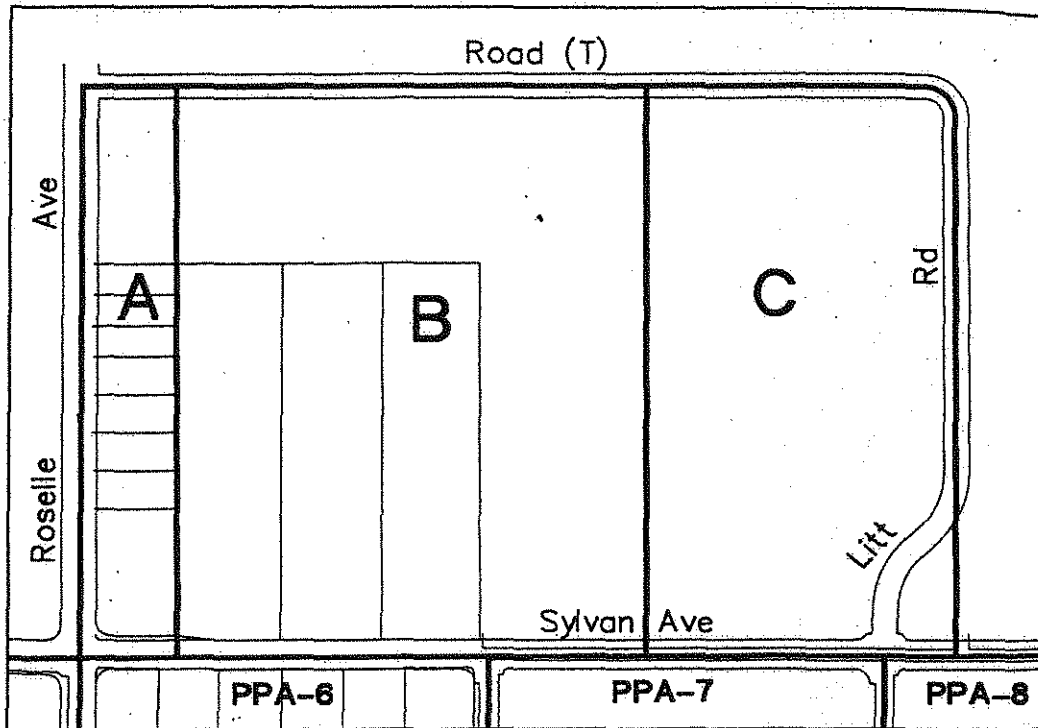
**Village One  
Specific Plan Amendment  
Attachments**

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- f. The High School Master Plan shall incorporate features to minimize potential conflicts between residential lots located along Roselle Avenue and the south side of Sylvan Avenue. These features may include but are not limited to setbacks, service roads, or other means to separate school activity areas and residential structures.
- g. The High School Master Plan shall indicate conformance with Section IIE(2) regarding School standards and Section IIF(2) regarding Park standards.
- h. Principal Underlying Zone(s)
- i. Sub-area "A" – P-O, Office Professional
- j. Sub-area "B" – R-1, Low Density Residential
- k. Sub-area "C" – R-1, Low-Density Residential

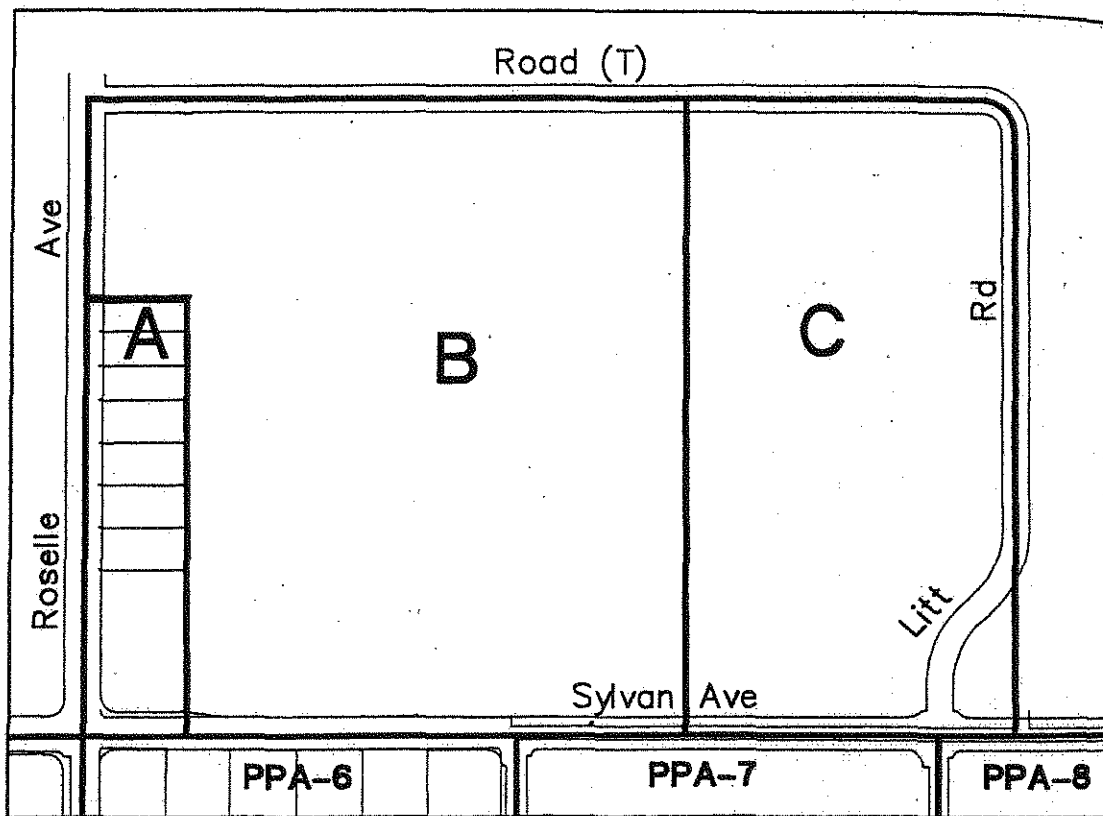
Village One  
Specific Plan Amendment  
Attachments

Figure III - 2  
Precise Plan Area #1  
(CURRENT)



Village One  
Specific Plan Amendment  
Attachments

Figure III - 2  
Precise Plan Area #1  
(PROPOSED)



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-130**

**A RESOLUTION APPROVING A FINAL DEVELOPMENT PLAN FOR AN  
OFFICE DEVELOPMENT ON A PORTION OF PRECISE PLAN FOR AREA  
NO. 1, PROPERTY LOCATED AT THE NORTHEAST CORNER OF SYLVAN  
AVENUE AND ROSELLE AVENUE. (SYLVAN VETERINARY HOSPITAL)**

WHEREAS, the City Council adopted the Village One Specific Plan, a 1,780-acre area of land adjoining the northeast portion of the City of Modesto, on October 16, 1990, and

WHEREAS, an application for a Final Development Plan for office development on the Sylvan Veterinary Hospital parcel at 3500 Roselle Avenue (APN 084-002-041) incorporated within Precise Plan Area No. 1, at the northeast corner of Sylvan and Roselle Avenues, was filed by Sylvan Veterinary Hospital, and

WHEREAS, the Planning Commission, by Resolution Nos. 2005-07, adopted on January 24, 2005, and City staff, by a report dated January 24, 2005, from the Community Development Department, recommended to the City Council approval of a Final Development Plan for a portion of Precise Plan Area No. 1, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 8, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> 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 Final Development Plan for office development on the Sylvan Veterinary Hospital parcel at 3500 Roselle Avenue (APN 084-002-041) conforms with the Village One Specific Plan and, Precise Plan Area No. 1

as adopted by the City Council, and establishes suitable development regulations and design guidelines consistent with the Specific Plan.

BE IT FURTHER RESOLVED by the City Council that the proposed Final Development Plan for office development on the Sylvan Veterinary Hospital parcel at 3500 Roselle Avenue (APN 084-002-041) be approved subject to the following conditions:

1. All development shall be consistent will the approved Final Development Plan as stamped approved by the City Council on the effective date of the SP-O Zoning for the project site. Except as amended herein, or by reference, all development shall be in accordance with the Village One Specific Plan and Precise Plan Area No. 1.
2. All street dedication and easements shall be provided and improvements shall be constructed in accordance with City of Modesto Standard Specifications and the Village One Specific Plan as required by the Public Works Director or designee pursuant to improvement plans.
3. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the Public Works Director or designee. All improvements shall be constructed in accordance with the approved plans. Street improvements on Sylvan Avenue and Roselle Avenue include but are not limited to street, paving, curb, gutter, sidewalk, and street lights along its entire street frontage.
4. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system. The developer shall conform to the erosion and sediment control pro-visions of the City.
5. The developer shall submit a plan for approval by the Public Works Director or designee to provide for storm drainage in accordance with the updated Village One Facilities Master Plan dated May 2003. If the City storm drain system is not available at the time of development, stormwater will have to be retained on site per City standards.

6. A temporary septic system may be allowed if the City sewer system is not within 100 feet of the property at the time of development.
7. The State Water Control Board and City of Modesto require a Storm Water Pollution Prevention Plan (SWPPP) to be developed prior to construction activity. A copy of the notice of intent (NOI) and SWPPP shall be required to obtain a grading permit if required by the Public Works Director or designee.
8. The developer shall show all fire hydrants on the improvement plans as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures
9. A landscaping and irrigation plan for all public area landscaping shall be approved by the Parks, Recreation, and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
10. Ten-foot-wide public utility easements and planting easements located within the ten-foot-wide public utility easements shall be dedicated along all street frontages as required by the Public Works Director or designee.
11. Prior to or concurrent with issuance of a building permit, irrigation, electrical, gas, sanitary sewer and domestic water lines shall be removed, relocated, or protected as required by the Public Works Director or designee and/or the utility companies, and easements for utility lines to remain shall be dedicated.
12. Prior to issuance of a building permit, the developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the Village One Specific Plan for the capital improvements and ongoing maintenance set forth in the Village One Specific Plan to be financed by said CFD or, if said CFD has been established for the Village One 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.

13. To the extent allowed by State law, annexation to the appropriate schools Community Facilities District will be required as a Condition of Approval. If this requirement cannot be enforced due to the status of State law, then prior to issuance of the first building permit or final map approval, whichever is earlier, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate Community Facilities District.
14. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction shall be based on the rates in effect at time of issuance of the building permit.
15. Except as amended herein, or by reference, all development shall be in accordance with the Village One Specific Plan and Precise Plan Area No. 1.
16. 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.
17. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.
18. All landscaping in the public right-of-way must be maintained by a CFD.
19. All signs shall comply with the sign requirements of the P-O Zone.

20. All outdoor lighting shall be shielded from adjacent residential uses as required by the City Engineer or designee.
21. 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.
22. Prior to issuance of building permits, access and maintenance agreements relative to all driveways on Roselle Avenue and the 40-foot-wide access driveway along the east side of Sub-area A shall be provided for office uses in Sub-area A. Said access and maintenance agreement shall contain provisions for the perpetual access and maintenance and repair of the driveway and shall be in a form to be approved by the City Attorney.
23. No animals shall be kept outside of the building.

In addition, the following mitigation measures from the approved Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR should be included as conditions of approval:

24. The Precise Plan shall contain the following statements:

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 a.m. to 9:00 p.m. 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.

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.

BE IT FURTHER RESOLVED by the City Council that the construction of this Final Development Plan shall begin on or before March 8, 2007, and to be completed not later than March 8, 2008.

BE IT FURTHER RESOLVED by the City Council that this Final Development Plan approval shall not become effective until the related Ordinance No. 3381-C.S adopting Precise Plan No. 1 and Ordinance No. 3382-C.S. approving the rezone of the Property from Very Low Density Residential to Office and High School become effective. In the event that Ordinance No. 3381-C.S. or Ordinance No. 3382-C.S. are challenged in any way by referendum, initiative, legal or administrative action prior to the effective date of said Ordinances, then the approval of the Final Development Plan provided hereby, shall immediately and automatically be deemed null and void.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahir  
JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-131**

**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. 19 TO THE VILLAGE ONE SPECIFIC PLAN TO AMEND THE VILLAGE ONE SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATIONS 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, ADOPTION OF A PRECISE PLAN FOR AREA NO. 1 AND CONCURRENT REZONING FROM SPECIFIC PLAN-HOLDING ZONE TO SPECIFIC PLAN-OVERLAY ZONE, AND APPROVAL OF A FINAL DEVELOPMENT PLAN FOR A PORTION PRECISE PLAN NO. 1, PROPERTY LOCATED AT THE NORTHEAST CORNER OF SYLVAN AVENUE AND ROSELLE AVENUE. (SYLVAN VETERINARY HOSPITAL)**

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 Sylvan Veterinary Hospital for (1) an amendment 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, (2) an approval of a Precise Plan for Area No. 1 in the Village One Specific Plan Area, and concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, (3) a Final Development Plan for a portion of Precise Plan for Area No. 1 in the Village One Specific Plan Area (collectively the “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 2005-03, 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. 2005-07, adopted on January 24, 2005, and City staff, by a report dated January 24, 2005, from the Community and Economic Development Department, recommended to the City Council approval of 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, to adopt a Precise Plan for Area No. 1 of the Village One Specific Plan and rezone Area No. 1 to Specific Plan-Overlay Zone, SP-O, and approval of a Final Development Plan for a portion of Precise Plan Area No. 1, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 8, 2005, 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 2005-03, entitled "Amendment of the Village One Specific Plan, Approval of Precise Plan Area No. 1, Final Development Plan, and any Subsequent Approvals Consistent with Proposed 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. The proposed zone change is required by public convenience or necessity and will result in an orderly planned use of land resources for the following reasons:
  - a. Office use is consistent with the land use plan because the site is of an appropriate size for office development.
  - b. Office use is compatible with the neighboring high school.
  - c. Office use is appropriate on Minor Arterial streets.
2. The proposed Precise Plan Area No. 1, and concurrent rezoning from Specific Plan - Holding Zone to Specific Plan - Overlay Zone are consistent with the Modesto Urban Area General Plan and the Village One Specific Plan as amended because it provides for Office and High School land use designations.

3. The proposed Final Development Plan for office development on the Sylvan Veterinary Hospital parcel at 3500 Roselle Avenue (APN 084-002-041) is consistent with the Modesto Urban Area General Plan and the Village One Specific Plan, as amended, and conforms with Precise Plan Area No. 1 because it provides suitable development regulations and design standards.
4. 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan and no new environmental document or findings are required by CEQA.
5. 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan are required, and
6. 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and
7. 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan; 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 Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

- 8. The Initial Study, Environmental Assessment No. EA/C&ED 2005-03, provides the substantial evidence to support findings 4-7, noted above.

A copy of said Environmental Assessment No. EA/C&ED 2005-03, entitled "Amendment of the Village One Specific Plan, Approval of Precise Plan Area No. 1, Final Development Plan, and any Subsequent Approvals Consistent with Proposed Project ", is on file with the City Clerk.

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 8<sup>th</sup> day of March, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-132**

**A RESOLUTION AUTHORIZING THE AWARD OF A THREE (3) YEAR  
CONTRACT WITH TWO (2) ONE YEAR EXTENSION OPTIONS TO FIRST  
HEALTH GROUP OF SACRAMENTO, CA FOR THE RE-PRICING OF  
WORKERS' COMPENSATION MEDICAL BILLS FOR AN ESTIMATED  
ANNUAL COST OF \$25,000 AND AUTHORIZING THE ACTING CITY  
MANAGER TO EXECUTE SAID CONTRACT**

WHEREAS, the City of Modesto provides medical treatment to its employees for industrial injuries/illness', and

WHEREAS, the City of Modesto engages in re-pricing of these bills utilizing the State of California Official Fee Schedule and PPO networks, and

WHEREAS, a detailed Request for Information (RFI) was issued on behalf of the City to solicit vendors who were capable and qualified to provide said re-pricing services to the City, and

WHEREAS, the RFI responses were evaluated by a committee comprised of the City's Risk Manager, Purchasing Supervisor, two outside subject matter experts and a City Council member as an observer, with First Health Group receiving the highest ranking in total evaluation criteria as determined by the evaluation committee, and

WHEREAS at its meeting on February 23, 2005, the Finance Committee accepted the report containing the selection and evaluation process, and

WHEREAS at said meeting, the Finance Committee further recommended taking to full Council the award of a three (3) year contract with two (2), one-year extension options to First Health Group, with terms and conditions as stated in said contract,

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

that it hereby authorizes the award of a three (3) year contract with two (2) one-year extension options to First Health Group of Sacramento, CA for an estimated annual cost of \$25,000, a copy of which will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Acting 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 8th day of March, 2005, 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, Jackman, Marsh, O'Bryant

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-133**

**A RESOLUTION APPROVING STAFF RECOMMENDATIONS  
IMPLEMENTING OPERATING BUDGET REDUCTIONS OVER A TWO-YEAR  
PERIOD RESULTING IN A BALANCED BUDGET BY FY 06-07**

WHEREAS, the City's General Fund operating revenues are not keeping pace with the growth in General Fund operating expenses, and

WHEREAS, this imbalance in revenues and expenditures is projected to continue without affirmative action being taken, and

WHEREAS, at its meeting of February 8, 2005, the City Council approved a recommendation that staff develop strategies for implementing a balanced budget by Fiscal Year 2005-2006, and

WHEREAS, at its meeting of February 23, 2005, the Finance Committee approved staff's implementation plan as outlined in the Committee report dated February 14, 2005,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the budget reduction strategies as outlined in the Council Agenda Report to the Mayor and City Council from Judith Ray, Assistant to the City Manager, dated February 24, 2005, 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 8th day of March 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zaher  
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-134**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE MODESTO  
ART IN PUBLIC PLACES, INC. AND THE CITY OF MODESTO TO ACCEPT A  
BUST OF CÉSAR CHAVEZ FOR INSTALLATION IN CÉSAR CHAVEZ PARK  
AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE  
AGREEMENT.**

WHEREAS, it is the desire of the City of Modesto to expand and enhance Art in Public Places throughout the greater Modesto area, and

WHEREAS, the Modesto Art in Public Places, Inc., a non-profit corporation, was established in 2004 to provide art in public places, and

WHEREAS, the Modesto Art in Public Places, Inc. has purchased a César Chávez bust and wishes to install the bust in the City of Modesto's César Chávez Park, and

WHEREAS, Modesto Art in Public Places, Inc., will set aside funding for the maintenance and repair costs associated with the bust, and

WHEREAS, an agreement with Modesto Art in Public Places, Inc. is needed for the City of Modesto to accept the César Chávez bust for installation in César Chávez Park, and

WHEREAS, at their January 31, 2005 meeting, the Safety and Communities Committee recommended entering into an agreement with Modesto Art in Public Places, Inc. to accept the César Chávez bust for installation in César Chávez Park,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into an agreement with the Modesto Art in Public Places, Inc. to accept the César Chávez bust for installation in César Chávez Park.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-135**

**A RESOLUTION APPOINTING CAROLE ANN STARK AND HENRY  
DOTINGA 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 March 7, 2005, and recommended appointment of CAROLE ANN STARK, a northeast resident, to the Community Qualities Forum.

WHEREAS, Vice Mayor Denny Jackman has recommended HENRY DOTINGA as his selection to the Community Qualities Forum.

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

SECTION 1. CAROLE ANN STARK, a northeast resident, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

SECTION 2. HENRY DOTINGA, as Vice Mayor Jackman's selection, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

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.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-136**

**A RESOLUTION APPOINTING JOINT 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 March 7, 2005, and recommended appointment of AMY CHRISTENSEN, GREWAL HARDINER and JOE MENDOZA to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission.

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

SECTION 1. AMY CHRISTENSEN, GREWAL HARDINER and JOE MENDOZA are hereby appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed joint 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 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-137**

**A RESOLUTION APPOINTING JOSEPH ALONZO AND ROBERT RASPO 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 March 7, 2005, and recommended appointment of JOSEPH ALONZO and ROBERT RASPO.

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

SECTION 1. JOSEPH ALONZO and ROBERT RASPO are hereby appointed to the Golf Courses Advisory Committee with term expirations 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 22<sup>nd</sup> day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-138**

**A RESOLUTION APPOINTING DOLORES NIEMI TO THE LANDMARK  
PRESERVATION COMMISSION**

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

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of DOLORES NIEMI to the Landmark Preservation Commission.

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

SECTION 1. DOLORES NIEMI is hereby reappointed to the Landmark Preservation Commission with term expirations of January 1, 2009.

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 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:   
JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-139**

**A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A  
REQUEST FOR QUALIFICATIONS FOR CONSULTANT  
SERVICES FOR 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 and finance master plans, and

WHEREAS, City staff wishes to pursue a consultant who will assist the City in developing facility master plans and infrastructure finance plans, and

WHEREAS, it is the intent of the Request for Qualifications (RFQ) to select a consultant team who will be used for a term of three to five years, and

WHEREAS, the Economic Development Committee met on March 7, 2005, and supported the recommendation to release the RFQ,

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 Qualifications for consultant services for facility 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 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-140**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND PPC  
TUOLUMNE GROVE 2, LLC FOR A PORTION OF THE IMPROVEMENTS  
NEEDED TO THE INTERSECTION OF OAKDALE ROAD AT LA FORCE  
DRIVE AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS  
OF THIS AGREEMENT HAVE BEEN ADQUATELY ADDRESSED BY THE  
PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR  
AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No.  
90020181), WITH AN ADDEUM FOR KODIAK VILLAGE III VESTING  
TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2004-45)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, PPC Tuolumne Grove 2, LLC (“Developer”) has agreed to install certain improvements to the intersection of Oakdale Road at La Force Drive, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“agreement”) between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$191,254, and

WHEREAS, the City Council has received and considered the Initial Studies, Environmental Assessment EA/C&ED Nos. 2004-45, which conclude that Developer’s project entitled Kodiak Village III Vesting Tentative Subdivision Map, 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 modified by the 1994 Final Supplemental EIR (SCH No. 90020181), with an Addendum for Kodiak Village III Vesting Tentative Subdivision Map



(EA/C&ED No. 2004-45), 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:

The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Meritage Homes of California, Incorporated ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

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.

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.

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.

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:

one or more significant effects which is not discussed in the Program EIR; or,  
significant effects which were previously examined will be substantially more severe than previously shown; or,

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,

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 Initial Study, Environmental Assessment EA/C&ED No. 2004-5, provides the substantial evidence to support findings 1-5, above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-141**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR PROPOSALS FOR THE FURNISHING  
OF FORMS PRINTING AND MAILING SERVICES, FOR A TWO (2) YEAR  
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN  
ESTIMATED ANNUAL COST OF \$332,687**

WHEREAS, the Finance Department, Customer Services Division and Information and Technology Department, manages and facilitates 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 Document 92C printer, which is housed in the City's Information and Technology Department's computer room, and

WHEREAS, the City's current lease on this printer expires December 2005, and

WHEREAS, City staff coordinates with a contracted service provider, to fold, stuff and mail these forms to the various customers of the City, and

WHEREAS, outsourcing the printing and designing of these forms could provide several benefits to the City, including enhanced customer service and technology. Outsourcing will improve flexibility in areas such as design overlay, changes to forms, viewing, tracking, producing duplicate bills, print backup contingency plan, and the printing of multiple page bills via the Internet, and

WHEREAS, the City's current system has limited ability to reproduce an original bill or use more than two (2) ink colors, and

WHEREAS, in addition, the current utility bill print program is custom designed by a retired individual who no longer lives in the area, and

WHEREAS, 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 City's Information and Technology Department has limited space in its computer room and the current printer occupies a large portion of the space, and

WHEREAS, with the printer's lease expiring in December 2005, the City should recognize savings in other areas, such as, maintenance, monthly lease payments on the printer, and staff time to manage the printing process, 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 forms printing and mailing 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 the furnishing of forms printing and mailing services, for a three (3) year agreement, with two (2) one-year extension options, 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 by an evaluation committee 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 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-142**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR STORM BASIN WEED ABATEMENT SERVICES TO CLARK PEST  
CONTROL OF MODESTO, CA. FOR AN INITIAL TWO-YEAR PERIOD WITH  
THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS, AT AN  
ESTIMATED COST OF \$71,500 FOR THE FIRST YEAR**

WHEREAS, the Public Works Department-Waste Water Collections Division has requested the purchase of storm basin weed abatement services, and

WHEREAS, currently the City of Modesto has twenty (20) storm basins throughout the storm collection system, and

WHEREAS, Resolution No. 2004-578 authorized the Purchasing Supervisor to solicit formal Request for Bids (RFB) for storm basin weed abatement services, and

WHEREAS, the estimated cost for storm basin weed abatement services for the first year is approximately \$71,500, and

WHEREAS, some are retention basins, while others are detention basins, and

WHEREAS, retention basins collect water through a sequence of underground pipes that feed the basin, and

WHEREAS, storm water is stored in these basins and allowed to percolate or evaporate, and

WHEREAS, detention basins have the added component of removing the storm water via a lift station located at the basin that pumps to an open waterway, MID canal, creek or river, and

WHEREAS, it is very important to maintain the integrity of these basins to be able to hold as much capacity as possible, and

WHEREAS, this allows removal of storm water from streets during heavy rain events, thus removing a public safety hazard, and

WHEREAS, our current weed abatement contract includes regularly scheduled spraying of weeds throughout our basin system, and

WHEREAS, this includes spraying at needed basins a total of four (4) times a year or as needed, and

WHEREAS, any chemicals used in the process are applied by a licensed and certified weed abatement contractor, and

WHEREAS, the Purchasing Division solicited formal Request for Bids (RFB) for storm basin weed abatement services on Request for Bid 0405-10, and

WHEREAS, out of eleven (11) vendors solicited, one (1) chose to respond to the RFB, and

WHEREAS, feedback from a number of vendors, who choose not to respond to the RFB, indicated that they could not comply with new State and Federal regulations for application for pre-emergent chemicals, and

WHEREAS, bids received were evaluated per specification 0405-10 by the Purchasing Division and Public Works, Water Collections Division, and

WHEREAS, the City Council has appropriated \$71,500 in account number 6280-480-5312-0212-50 for storm basin weed abatement services, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment, or contractual services to be formally bid, and the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, and



WHEREAS, the storm basin weed abatement services received said approval with Resolution No. 2005-578. This award of bid and contract will conform to code, and

WHEREAS, Clark Pest Control of Modesto, CA. was deemed the low responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for storm basin weed abatement services for an initial two-year period, with three (3) one-year contract extension options to Clark Pest Control of Modesto, CA. at an estimated annual cost of \$71,500 for the first year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-143**

**A RESOLUTION AUTHORIZING AWARD OF BID AND CONTRACT FOR  
THE REBUILDING OF NINE (9), 1990 GILLIG/LIFT-U WHEELCHAIR LIFTS  
TO GILLIG CORPORATION OF HAYWARD, CA. FOR AN ESTIMATED  
TOTAL COST OF \$78,991.49**

WHEREAS, the Public Works Department-Fleet Services Division has requested a purchase for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, and

WHEREAS, the wheelchair lifts on our City of Modesto buses must be kept to the highest standards of repair and maintenance for the safety of our disabled customers, and

WHEREAS, the lifts in use now are the original lifts that were purchased with the buses, and

WHEREAS, the normal life cycle on these lifts average twelve (12) years and these lifts are now fourteen (14) years old, and

WHEREAS, due to solid preventive maintenance programs, staff has been able to stretch the life of these lifts to the current fourteen-year point, and

WHEREAS, recent maintenance records indicate it is time to rebuild or replace the lifts, and

WHEREAS, the rebuilding program being offered by the original manufacturer of our lifts will bring the lifts back to the original manufactured specifications, with a full factory warranty, and

WHEREAS, the rebuild program is the most cost effective use of the City's maintenance funds, and

WHEREAS, funding for rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts is budgeted in account number 6540-480-5612-5600, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid. 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)). The rebuilding of nine (9) 1990 Gillig/Lift-U Wheelchair Lifts received said approval with Resolution No. 2005-60, and

WHEREAS, the Purchasing Division solicited formal bids for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair lifts on RFB 0405-14 and

WHEREAS, all three vendors solicited for bids responded to the RFB, and

WHEREAS, Gillig Corporation of Hayward, CA. is the lowest responsive and responsible bidder for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, and

WHEREAS, this award of bid and contract conforms to MMC, Section 8-3.203,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts to Gillig Corporation of Hayward, CA. for an estimated total cost of \$78,991.49.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is authorized to issue a purchase order for the rebuilding of nine (9) Gillig/Lift-U Wheelchair Lifts to Gillig Corporation of Hayward, CA. in the approximate total cost of \$78,991.49.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-144**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR CONCRETE BOXES AND COVERS, AND CAST IRON COVERS AND FRAMES FOR AN INITIAL TWO-YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS TO THE FOLLOWING VENDORS: GROENIGER & COMPANY OF MODESTO, CA. IN THE APPROXIMATE AMOUNT OF \$68,029.61; KENKO UTILITY SUPPLY OF TRACY, CA. IN THE APPROXIMATE AMOUNT OF \$29,813.28; AND A.C.E. FABRICATION OF BASTA, CA. IN THE APPROXIMATE AMOUNT OF \$3,627.72. THE TOTAL COMBINED PURCHASE AMOUNT FOR CONCRETE BOXES AND CAST IRON COVERS AND FRAMES FOR THE INITIAL ONE-YEAR PERIOD IS APPROXIMATELY \$101,470.61.**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of concrete boxes and covers and cast iron covers and frames for an initial two-year period, with three (3) one-year contract extension options, and

WHEREAS, the Central Stores Division is responsible for inventorying concrete boxes and covers and cast iron covers and frames for use by various departments (Public Works and other departments) for ongoing City projects, and

WHEREAS, Resolution No. 2005-61 authorized the Purchasing Supervisor to solicit Request for Bid (RFB) for concrete boxes and covers and cast iron covers and frames, and

WHEREAS, the Purchasing Division solicited formal bids for concrete boxes and covers and cast iron covers and frames with Request for Bid No. 0405-15, and

WHEREAS, twenty one (21) vendors were solicited and five (5) chose to respond to the RFB, and

WHEREAS, Groeniger & Company of Modesto, CA. is the lowest responsive and responsible bidder for items 1-8, 12, 14-15, 17-18, 20-21, 29, 31 and 33 of the RFB, and

WHEREAS, Kenko Utility Supply of Tracy, CA. is the lowest responsive and responsible bidder for items 9-11, 13, 16, 19, 22, 25-28, 30 and 32 of the RFB, and

WHEREAS, A. C. E. Fabrication of Basta, CA. is the lowest responsive and responsible bidder for items 23 and 24 of the RFB,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for concrete boxes and covers and cast iron covers and frames to Groeniger & Company of Modesto, CA. for the bid items set forth herein in the approximate amount of \$68,029.61; Kenko Utility Supply of Tracy, CA. for the bid items set forth herein in the approximate amount of \$29,813.28; and A.C.E. Fabrication of Basta, CA. for the bid items set forth herein in the approximate amount of \$3,627.72.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue purchase agreements for concrete boxes and covers and cast iron covers and frames to: Groeniger & Company of Modesto, CA. in the approximate annual amount of \$68,029.61; Kenko Utility Supply of Tracy, CA. in the approximate annual amount of \$29,813.28; and A.C.E. Fabrication of Basta, CA. in the approximate annual amount of \$3,627.72.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-145**

**A RESOLUTION AWARDING A CONTRACT TO ROYSTON  
HANAMOTO ALLEY & ABEY FOR PROFESSIONAL  
LANDSCAPE ARCHITECTURAL SERVICES TO PREPARE A  
MASTER PLAN, DESIGN DEVELOPMENT REPORT AND  
CONSTRUCTION DOCUMENTS FOR CLAUS NEIGHBORHOOD  
PARK INCLUDING THE NECESSARY ADJACENT ROAD  
IMPROVEMENTS, FOR A COST NOT TO EXCEED \$142,500.00,  
AND AUTHORIZING THE ACTING CITY MANAGER TO  
EXECUTE THE CONTRACT.**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Claus Neighborhood Park site on the northeast corner of Kodiak Drive and Litt Road, adjacent to the future Sylvan Union Elementary School Site on the corner of Kodiak Drive and Fine Avenue, and

WHEREAS, this is the third and final neighborhood park in the Village One Specific Plan Boundary to be designed, and

WHEREAS, development of this neighborhood park is expected to begin in summer of 2006, and in order to be prepared to begin construction on this schedule, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2005-2006, and

WHEREAS, on January 25, 2005, the Modesto City Council adopted a resolution approving an On-Call Landscape Architectural Service Provider List; staff has selected from that list, Royston, Hanamoto Alley & Abey (RHAA) to complete professional landscape architectural services for Claus Neighborhood Park including the necessary adjacent road improvements, and

WHEREAS, RHAA has agreed to provide the Master Plan, Design Development Report, and Construction Documents at a cost not to exceed \$142,500.00, and



WHEREAS, the Master Plan will be developed using community input through public meetings and workshops, and

WHEREAS, the Safety and Communities Committee met on February 28, 2005, and supported the recommendation to award a contract to Royston, Hanamoto Alley & Abey,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves awarding a contract to Royston Hanamoto Alley & Abey for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements, for a cost not to exceed \$142,500.00.

BE IT FURTHER RESOLVED that the Acting 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 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-145A**

**A RESOLUTION AMENDING THE FY 04-05 CAPITAL IMPROVEMENT PROGRAM TO TRANSFER \$30,000.00 FROM THE CAPITAL FACILITIES FEE RESERVE 1350-800-800-8003 TO THE CLAUS NEIGHBORHOOD PARK ACCOUNT #1350-310-P402-6010, THUS FULLY FUNDING THE DEVELOPMENT OF A MASTER PLAN, DESIGN DEVELOPMENT REPORT, AND CONSTRUCTION DOCUMENTS FOR CLAUS NEIGHBORHOOD PARK INCLUDING THE NECESSARY ADJACENT ROAD IMPROVEMENTS.**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Claus Neighborhood Park site on the northeast corner of Kodiak Drive and Litt Road, adjacent to the future Sylvan Union Elementary School Site on the corner of Kodiak Drive and Fine Avenue, and

WHEREAS, this is the third and final neighborhood park in the Village One Specific Plan Boundary to be designed, and

WHEREAS, development of this neighborhood park is expected to begin in summer of 2006, and in order to be prepared to begin construction on this schedule, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2005-2006, and

WHEREAS, by Resolution No. 2005-145, adopted on March 22, 2005, the City Council awarded a contract to Royston Hanamoto Alley & Abey for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements, for a cost not to exceed \$142,500.00, and

WHEREAS, City staff project management to complete the Master Plan, Design Development Report, Construction Documents and Environmental Findings is anticipated to be approximately \$23,500.00, and

WHEREAS, temporary fencing was installed around the park this past summer to discourage dumping of spoils on the park before it is developed, at a cost of \$17,000, and

WHEREAS, the total cost for the Design Development Report, Master Plan, Construction Documents, city staff project management, and temporary fencing is expected to be approximately \$183,000.00, and

WHEREAS, the Claus Neighborhood Park account #1350-310-P402 has funding of \$153,000.00 budgeted for the planning of this park from Parks Capital Facility Fees (CFF), and

WHEREAS, the additional \$30,000 in funding is available in the Parks CFF Reserve, Account #1350-800-8000-8003, and

WHEREAS, on February 28, 2005, the Safety and Communities Committee recommended amending the Capital Improvement Program to fully fund the development of a Master Plan, Design Development Report, and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the FY 04-05 Capital Improvement Program to transfer \$30,000.00 from the Capital Facilities Fee Reserve Account# 1350-800-800-8003 to the Claus Neighborhood Park Account #1350-310-P402-6010, thus fully funding the development of a Master Plan, Design Development Report, and Construction

Documents for Claus Neighborhood Park including the necessary adjacent road improvements.

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 22<sup>nd</sup> day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-146**

**A RESOLUTION TERMINATING HARVEST OF HOPE AS A  
COMMUNITY BASED DEVELOPMENT ORGANIZATION  
(CBDO)**

WHEREAS, on April 23, 2002, by Resolution No. 2002-187, the City Council designated Harvest of Hope, a local non-profit organization, as a Community Based Development Organization (CBDO), and

WHEREAS, CBDO is a Department of Housing and Urban Development (HUD) designation for either for-profit or non-profit organizations that work under State or local law to engage in community development activities primarily within an identified geographic area of operation within the jurisdiction of the recipient, and

WHEREAS, additionally, the organization must have, as its primary purpose, the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income, and

WHEREAS, on May 14, 2002, by Resolution No. 2003-249, as part of the 2002-2003 Annual Action Plan, the City Council approved the allocation of \$50,000 from Community Development Block Grant (CDBG) funds for CBDO activities, of which, \$15,000 was set aside to Harvest of Hope for CBDO activities, and

WHEREAS, specifically, Harvest of Hope committed to the following activities: hire a full-time coordinator for Volunteers Assisting Code Enforcement (VACE) program; establish a schedule for major events to occur during the year, especially training of VACE volunteers; and establish a database to track program efforts, and,

WHEREAS, based on the contract agreement with Harvest of Hope, in June 2003, the City of Modesto advanced \$6,000 to Harvest of Hope to cover start-up costs for their CBDO efforts, and

WHEREAS, Harvest of Hope was to turn in receipts for \$6,000 to justify the costs and trigger further financial reimbursement, and

WHEREAS, in subsequent months, staff tried to contact Harvest of Hope to follow up on the progress of this project, but was unable to reach them, and

WHEREAS, staff then sent two letters attempting to collect receipts, funds, and gather information about the status of Harvest of Hope, but was unsuccessful, and

WHEREAS, on May 25, 2004, City of Modesto staff received an e-mail from Peter Gardner, Executive Board of Harvest of Hope, stating:

*“ Due to a lack of funding and circumstances beyond our control, Harvest of Hope will be inactive for the near future. The executive board will be revisiting its Mission, rethinking its Goals, and reorganizing for the challenges that the future holds.*

*During this time, we are still seeking funding and accepting cash donations. Besides funding, we would gratefully accept encouragement and constructive advise. We regret this situation for all concerned.”*

and,

WHEREAS, in the months following the e-mail; staff met and worked with members from the Harvest of Hope organization to better understand the status of the organization as well as the \$6,000 the City had advance the organization, and

WHEREAS, at this point, it appears that Harvest of Hope will not be reforming or becoming active in the near future, nor will it have the ability due to several tax issues, to re-pay the City of Modesto the \$6,000 or produce receipts for the items purchased, and

WHEREAS, based on the Community Development Block Grant (CDBG) regulations, and Harvest of Hope's inability to meet the HUD definition of a CBDO, staff is recommending terminating this organization's CBDO status, and

WHEREAS, the Community Development Committee (CH&CDC) met on February 25, 2005, and accepted staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby terminates Harvest of Hope as a Community Based Development Organization (CBDO).

BE IT FURTHER RESOLVED that staff is authorized to send a letter to Harvest of Hope with the Council's resolution, and to notify the Department of Housing and Urban Development (HUD) to remove Harvest of Hope's CBDO status.

BE IT FURTHER RESOLVED that staff is directed to work with the Department of Housing and Urban Development (HUD) to close out this activity.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-147**

**A RESOLUTION OPPOSING THE “ELIMINATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING” IN PRESIDENT’S 2006 BUDGET PROPOSAL AND DIRECTING STAFF TO SEND LETTERS OF OPPOSITION TO THE APPROPRIATE LEGISLATIVE COMMITTEES.**

WHEREAS, in early January 2005, President Bush released his budget proposal for fiscal year 2006, and

WHEREAS, the 2006 budget covers many different funding proposals, of particular concern for the City of Modesto is the reduction and realignment of the Community Development Block Grant (CDBG) program, and

WHEREAS, while details regarding the 2006 budget proposal are still under study, it appears that the CDBG program will not be included in the Department of Housing and Urban Development (HUD) budget, and

WHEREAS, according to the 2006 HUD budget request, the CDBG Program (\$4.853 billion) will either be eliminated completely or transferred into a program within the Department of Commerce, and

WHEREAS, in researching the 2006 budget proposal, HUD’s focus seems to narrow to a variety of housing and homelessness programs, and

WHEREAS, the HOME program, as well as the “Homeless Assistance Grants,” which are funded through Continuum of Care models, and Emergency Shelter Grants, will receive funding increases, and additionally, the American Dream Down Payment Initiative (ADDI) and other mortgage programs will receive additional funds, and

WHEREAS, according to HUD website, the President’s budget “proposes a new program within the Department of Commerce to support communities efforts to meet the goals of improving their economies and their quality of Life. This initiative will

consolidate programs such as Community Development Block Grants into a more targeted, unified program that set accountability standard in exchange for flexible use of the funds,” and

WHEREAS, the Department of Commerce website describes a new program entitled the “Strengthening America’s Communities Grant Program”, and

WHEREAS, this program is a major change in the area of economic development, specifically within the Economic Development Administration (EDA), and

WHEREAS, the new “Strengthening America’s Communities Grant Program” serves to replace duplicative federal economic and community development programs with a more consolidated approach that provides for greater flexibility, accountability and targeting than any of the current approaches, and

WHEREAS, the FY 2006 budget request for the new Strengthening America’s Communities Grant Program is \$3.71 billion, and

WHEREAS, currently the following organizations are opposing this section of the President’s proposed budget: National League of Cities, National Association of Counties, National Community Development Association, The United States Conference of Mayors, National Association of Housing and Redevelopment Officials and National Association for County Community and Economic Development, and

WHEREAS, the Community Development Block Grant (CDBG) is an important tool for improving the lives of low-income residents, and

WHEREAS, if the President’s budget proposal passed unchanged by Congress, the end result appears to be at least a \$2 million loss in funding per year to the City of Modesto from HUD, and

WHEREAS, beside the lack of on-going activities for the low-income residents of Modesto, the City of Modesto is obligated to make payments to the Section 108 Loan at \$361,000 per year ending in FY 2024-2025 from its General Fund, in the event the CDBG funds are eliminated,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby opposes the “Elimination of Community Development Block Grant (CDBG) funding” in President’s 2006 Budget Proposal.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to send letters of opposition to the “Elimination of Community Development Block Grant (CDBG) funding” 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 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-148**

**A RESOLUTION APPROVING A REQUEST FROM THE  
MODESTO CITY SCHOOLS CHILD DEVELOPMENT  
PROGRAM OFFICE FOR USE OF AMPLIFIED MUSIC AT  
MANCINI BOWL FOR A CHILDREN'S CONCERT TO BE HELD  
ON MAY 12, 2005.**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from Modesto City Schools, requesting use of amplified music at Mancini Bowl on Thursday, May 12, 2005, for a children's 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 at its February 28, 2005, meeting recommended that the City Council permit the use of amplified music for a children's concert at Mancini Bowl on May 12, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the Modesto City Schools for the use of amplified music at Mancini Bowl for a children's concert on May 12, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-149**

**A RESOLUTION APPROVING SUBMITTAL OF AN APPLICATION TO THE  
STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY  
DEVELOPMENT FOR FUNDING UNDER THE WORKFORCE HOUSING  
REWARD PROGRAM AND AUTHORIZING THE ACTING CITY MANAGER  
TO EXECUTE THE APPLICATION.**

WHEREAS, the State of California Department of Housing and Community Development (HCD) released a Notice of Funding Availability (NOFA) for a program entitled "Workforce Housing Incentive Grant Program" (WFH Program); this is an innovative new program designed to encourage cities and counties to approve new residential housing affordable to lower income households, and

WHEREAS, the WFH Program, funded through the passage of Proposition 46 (Chapter 482, Statutes of 2002), provides grant funds to eligible local governments for every qualifying unit permitted during calendar year 2004; grant awards can be used to fund any capital asset project, such as transportation or park improvements; total fund available for this program is \$23 million, and

WHEREAS, in order to qualify for the funding, the City of Modesto must meet the following requirements:

- Housing Element adopted and in compliance by HCD by December 31, 2004
- Submittal of the 2003 Annual Progress Report to HCD by December 31, 2004
- Final land use approvals and building permits for affordable units issued on or after January 1, 2004 through December 31, 2004

and,

WHEREAS, the City has met these requirements through the leadership of the Community and Economic Department; the funding amount is based on the number of final land use and or building permits that were issued in 2004 for affordable housing

units; these units must meet the federal guidelines for affordability and have an affordability covenant placed on the property, and

WHEREAS, currently, according to staff research, the apartment complex under construction by STANCO at 3333 Carver is the only project that meets this criterion; these units were issued a building permit on April 27, 2004, and

WHEREAS, based on the number of units, the City of Modesto will be eligible to receive \$58,000; additionally, because the City of Modesto received funding through this program last year, we will be awarded additional bonus funding in the amount of \$18,000; in total, the City is eligible for \$76,000 from this funding source, and

WHEREAS, the City of Modesto, Parks, Recreation and Neighborhood Department wishes to submit an application for this funding source to help finance the Neighborhood Center at Marshall Park,

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

1. Authorizes the execution of a standard agreement and any amendments thereto, and any other documents necessary to secure a Workforce Housing Reward Grant from the State of California Department of Housing and Community Development (HCD), and
2. Agrees that, if the application is approved, the City of Modesto shall be subject to the terms and conditions as specified in the standard agreement (Contract); funds are to be used for allowable capital asset project expenditures to be identified in Attachment A of the Contract; the application in full is incorporated as part of the Contract and any and all activities funded, information provided, and timelines represented in the application are enforceable through the Contract, and

3. Agrees that the City of Modesto will use the funds for eligible capital asset(s) in the manner presented in the application as approved by the HCD and in accordance with the Notice of Funding Availability (NOFA) and Program Guidelines and Application Package, and
4. Approves the execution of any and all instruments required by the HCD for participation in the Workforce Housing Incentive Grant Program (WFH Program), and
5. Authorizes and appoints the Acting City Manager, or his designee, as agent of the City to submit and execute the application, the Standard Agreement, and all other documents, required by the Department, for participation in the Workforce Housing Incentive Grant Program (WFH Program), and any amendments thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

Attest:   
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
 MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-150**

**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 Acting 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 CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

1. Streets Superintendent

Said classification is being created to reflect a recent staffing change in the Public Works Department. The job specification for the classification of Streets Superintendent is 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 job specifications for the following classifications:

1. Wastewater Collections Superintendent
2. Public Information Technician

Said classifications are being amended to update the essential functions and experience and training guidelines to more accurately reflect the requirements of these classifications.

SECTION 3. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classification:

1. Streets Engineer

Said classification is no longer being used.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after March 22, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney

## STREETS SUPERINTENDENT

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 Streets Division in the Public Works Department including street maintenance and repair and graffiti abatement; to coordinate street maintenance activities with other divisions and departments; to prepare operating and capital budgets; and to provide highly complex staff assistance to the Public Works Director.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a Deputy Director of Public Works.

Exercises direct supervision over other management, 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 a program of street maintenance activities including asphalt and concrete maintenance, pavement markings, traffic signs, and graffiti abatement.

Direct, oversee and participate in the development of the division strategic plan; assign work activities, projects and programs; monitor work flow; implement policies and procedures; review and evaluate work products, methods and procedures.

Prepare the division's budget; 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; review and recommend employee terminations, as needed.

Essential Functions: (Continued)

Review capital improvement plans related to the assigned services and provide input regarding future maintenance activities.

Receive, investigate, and respond to citizen requests, suggestions and complaints.

Check street and related facilities and equipment for needed maintenance and repairs.

Inspect work sites before, during and after completion to assure such is completed in a satisfactory and thorough manner; inspect work sites, equipment and tools for compliance with safety standards; inspect and approve work done by outside contractors.

Attend weekly safety meetings; ensure the adherence to safe work practices by street maintenance personnel.

Prepare various reports and direct special projects as required.

Supervise, train and evaluate assigned staff.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Materials, methods, practices and equipment used in asphalt and concrete maintenance and repair activities, as well as refuse collection.

Types and level of maintenance and repair activities generally performed in a street maintenance and repair program.

Occupational hazards and standard safety precautions necessary in the work.

Principles and practices of supervision, training and personnel management.

Knowledge of: (Continued)

Budgeting procedures and techniques.

Record keeping and reporting procedures.

Safe work practices.

Ability to:

Organize, direct and implement a comprehensive street and sidewalk maintenance program.

Conduct studies, prepare comprehensive reports and determine cost effective ways for conducting the assigned maintenance activities.

Supervise, train and evaluate assigned staff.

Prepare and administer a budget.

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

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

Communicate clearly and concisely, both orally and in writing.

Review new and innovative technology and evaluate cost benefit and effectiveness.

Respond to changing work environment through continuous evaluation of work processes and procedures.

Provide a participative management style while encouraging and motivating staff to a goal of team performance.

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, performing street and concrete maintenance work, street sweeping and refuse collection, including three years of supervisory or lead responsibility.

Training:

Equivalent to a Bachelor of Arts degree from an accredited college with major course work in civil engineering, construction technology, 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 and travel from site to site.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-151**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-178 (MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION MEMORANDUM OF UNDERSTANDING) TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CREATE THE CLASSIFICATION OF STREETS SUPERINTENDENT AT SALARY RANGE 441 (\$5565-\$6781) AND TO DELETE THE CLASSIFICATION OF STREETS ENGINEER FROM THE CLASS RANGE TABLE.**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2003-178 (MCMA Memorandum Of Understanding),

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2003-178. (MCMA Memorandum of Understanding), Resolution No. 2003-178 Effective April 8, 2003, 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 September 7, 2004, 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 Streets Superintendent at Range 441 and deletes the Streets Engineer from the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after March 22, 2005.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **March 7, 2005**

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RANGE	TITLE
403	Administrative Office Assistant I (Confidential)
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

RANGE      TITLE

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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

436    Electrical Supervisor  
      Senior Planner

437

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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 <b>Streets Superintendent</b> 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

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RANGE	TITLE
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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. 2005-152**

**A RESOLUTION ORDERING THE CITY ENGINEER 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 order the City Engineer to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-153**

**A RESOLUTION ORDERING THE CITY ENGINEER 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 order the City Engineer to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the provisions



of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Mike Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-154

**RESOLUTION ACCEPTING THE WORK BY PROFESSIONAL CONSTRUCTION SERVICES FOR THE "MODIFICATION OF TRAFFIC SIGNALS AT STANDIFORD/COLONIAL, EL VISTA/ENCINA AND TULLY/RUMBLE INTERSECTIONS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$213,841.59 PER THE CONTRACT. TOTAL PROJECT COST IS \$269,003.52.**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modification of Traffic Signals at Standiford/Colonial, El Vista/Encina and Tully/Rumble Intersections" has been completed by Professional Construction Services in accordance with the contract agreement dated October 7, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Modification of Traffic Signals at Standiford/Colonial, El Vista/Encina and Tully/Rumble Intersections" project be accepted from said contractor, Professional Construction Services, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$213,841.59, 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 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-155**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$993,256.50 CONTRACT WITH 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 - STPL-5059 (108)," AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT.**

WHEREAS, the bids received for "2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction From 365' North of Sylvan Avenue To 2,500' North of Sylvan Avenue - STPL-5059 (108)" were opened at 11:00 a.m. on February 22, 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 \$993,256.50 received from Top Grade Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Top Grade Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Top Grade Construction, Inc., in the amount of \$993,256.50, and hereby awards Top Grade Construction, Inc., the contract titled "2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction From 365' North of Sylvan Avenue To 2,500' North of Sylvan Avenue - STPL-5059 (108)."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-156

RESOLUTION ACCEPTING THE WORK BY CLAYBORN CONTRACTING GROUP, INC., FOR THE "CONSTRUCT ELECTRICAL VAULT BUILDING, RELOCATE/UPGRADE ELECTRICAL VAULT EQUIPMENT, AND INSTALL EMERGENCY GENERATOR" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$348,287.78 PER THE CONTRACT. TOTAL PROJECT COST IS \$479,667.62.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Construct Electrical Vault Building, Relocate/Upgrade Electrical Vault Equipment, and Install Emergency Generator" has been completed by Clayborn Contracting Group, Inc., in accordance with the contract agreement dated September 23, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Construct Electrical Vault Building, Relocate/Upgrade Electrical Vault Equipment, and Install Emergency Generator" project be accepted from said contractor, Clayborn Contracting Group, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$348,287.78 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 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-157**

**RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE "CENTRE PLAZA LIGHTING CONTROLS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$246,900 PER THE CONTRACT. TOTAL PROJECT COST IS \$258,342.**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Centre Plaza Lighting Controls" has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated June 22, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Centre Plaza Lighting Controls" project be accepted from said contractor, Collins Electrical Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$246,900, 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 22nd day of March 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-158**

**RESOLUTION ACCEPTING THE WORK BY RICHARD A. HEAPS ELECTRICAL CONTRACTOR, INC., FOR THE "INSTALLATION OF TRAFFIC SIGNAL DETECTOR LOOPS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$195,648 PER THE CONTRACT. TOTAL PROJECT COST IS \$254,203.**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Traffic Signal Detector Loops" has been completed by Richard A. Heaps Electrical Contractor, Inc., in accordance with the contract agreement dated November 25, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Installation of Traffic Signal Detector Loops" project be accepted from said contractor, Richard A. Heaps Electrical Contractor, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$195,648, 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 22nd day of March, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-159**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$43 MILLION PRINCIPAL AMOUNT OF WASTEWATER REVENUE REFUNDING BONDS, SERIES 2005A AND 2005B (TAXABLE), AUTHORIZING AND DIRECTING EXECUTION OF A WASTEWATER REVENUE BOND INDENTURE AND A FIRST AND SECOND SUPPLEMENT THERETO, APPROVING A CONTRACT OF PURCHASE, ESCROW AGREEMENTS, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE AGREEMENT 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") or for the purpose of refunding bonds issued for such purposes; and

WHEREAS, in accordance with the Bond Law and an Indenture of Trust, dated as of December 1, 1987 (the "Prior Indenture"), the City previously issued its Wastewater Treatment Facility Refunding Bonds, Series 1987, in an aggregate principal amount of to provide funds to advance refund certain outstanding wastewater revenue bonds; and

WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented by a First Supplemental Indenture, dated as of September 1, 1993, the City previously issued its Wastewater Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), in an aggregate principal amount of \$8,555,000 to finance the acquisition and construction of improvements to the Enterprise; and



WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented, including as amended and supplemented by a Second Supplemental Indenture, dated as of August 1, 1996, the City previously issued its Wastewater Treatment Facility Refunding Revenue Bonds, Series 1996, in an aggregate principal amount of \$8,695,000 to provide funds to current refund the 1987 Bonds, and

WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented, including as amended and supplemented by a Third Supplemental Indenture, dated as of April 1, 1997 (the "Third Supplemental Indenture"), the City has previously issued its Wastewater Treatment Facility Revenue Bonds, Series 1997 (the "Series 1997 Bonds") in an aggregate principal amount of \$32,400,000 to finance the acquisition and construction of improvements to the Enterprise; and

WHEREAS, the City, after due investigation and deliberation, has determined that it is in the interests of the City at this time to issue its Wastewater Revenue Refunding Bonds, Series 2005A (the "Series 2005A Bonds") and its Wastewater Revenue Refunding Bonds, Series 2005B (Taxable) (the "Series 2005B Bonds" and collectively with the Series 2005A Bonds, the "Series 2005 Bonds"), in an aggregate principal amount not to exceed \$43 million under the Bond Law to provide funds to current refund the outstanding Series 1993 Bonds and to advance refund the outstanding Series 1996 Bonds and Series 1997 Bonds; and

WHEREAS, the 2005 Bonds are proposed to be issued pursuant to the Wastewater Revenue Bond Indenture as supplemented by the First Supplemental Wastewater Revenue Bond Indenture and the Second Supplemental Wastewater Revenue Bond Indenture described below; and

WHEREAS, the 2005 Bonds are proposed to be sold to Banc of America Securities LLC (the “Underwriter”) pursuant to the Contract of Purchase described below; and

WHEREAS, it is proposed that the City execute and deliver the Escrow Agreements described below to provide for the refunding of the outstanding Series 1993 Bonds, Series 1996 Bonds and Series 1997 Bonds; 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, 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 2005 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 2005 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:

The City Council hereby authorizes the issuance of its Wastewater Revenue Refunding Bonds, Series 2005 in an aggregate principal amount not to exceed \$43 million.

The City Council hereby approves the form of the Wastewater Revenue Bond Indenture (the “Master Indenture”), the First Supplemental Wastewater Revenue Bond

Indenture (the “First Supplement”) and the Second Supplemental Wastewater Revenue Bond Indenture (the “Second Supplement” and collectively with the Master Indenture and the First Supplement, the “Indenture”), each dated as of April 1, 2005, each by and between the City and U.S. Bank National Association (the “Trustee”) in substantially the forms on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Sidley Austin Brown & Wood 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, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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 Master Indenture, the First Supplement and the Second Supplement for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Master Indenture, the First Supplement and the Second Supplement.

The proposed form of the Series 2005A Bonds as set forth in the First Supplement, and the proposed form of the Series 2005B Bonds as set forth in the Second Supplement, are hereby approved and the Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is hereby authorized and directed to execute for and on behalf of the City the Series 2005 Bonds in substantially such forms and the City Clerk is authorized and directed to attest to said signature on the Series 2005 Bonds, and the Trustee is hereby authorized and directed to authenticate and deliver the Series 2005 Bonds to the

Underwriter in accordance with the Indenture and the Contract of Purchase approved herein, subject to the limitations set forth in Section 3 hereof.

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 2005 Bonds, the true interest cost of the Series 2005 Bonds shall not exceed 5.0% per annum, the net present value savings to be derived from the refunding of the Series 1993 Bonds, the Series 1996 Bonds and the Series 1997 Bonds shall be not less than 3.0% of the refunded bonds, and the final maturity of the Series 2005 Bonds shall be not later than November 1, 2022. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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.

The City Council hereby approves the form of each of the Escrow Agreements relating to the defeasance of the Series 1993 Bonds, the Series 1996 Bonds and the Series 1997 Bonds, respectively (collectively, the “Escrow Agreements”) by and between the City and the Trustee in substantially the forms 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, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute the final forms of the Escrow Agreements for and in the name and on behalf of the City.

The City hereby authorizes the delivery and performance of the Escrow Agreements.

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, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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.

The City Council hereby approves the form of preliminary official statement of the City relating to the Series 2005 Bonds (the "Preliminary Official Statement") in substantially the form submitted to this City Council. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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 2005 Bonds) as the Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance 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 2005 Bonds, and the Underwriter is directed to deliver copies of any final official statement to all actual purchasers of the Series 2005 Bonds.

All actions heretofore taken by the officers and agents of the City with respect to the issuance of the Series 2005 Bonds are hereby approved, confirmed and ratified. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or 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 Acting City Manager, the Finance Director, the Acting 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 2005 Bonds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
AYES:	Councilmembers:	Marsh

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-160**

**A RESOLUTION DESIGNATING THE PROPERTY AT 215 ELMWOOD  
COURT AS A MODESTO LANDMARK PRESERVATION SITE (OWNERS:  
ROBERT AND DENISE DRAIZEN)**

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on January 24, 2005 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended by Resolution No. 2005-1, that the property at 215 Elmwood Court is eligible for designation as a Landmark Preservation Site for the following reasons:

- (1) The location and setting is compatible with future preservation and use.
- (2) The physical condition is such that preservation maintenance or adaptive use is economically feasible.
- (3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
- (4) The existing or proposed use is compatible with the preservation and maintenance of the site

and

WHEREAS, the Safety and Communities Committee met on February 28, 2005 and supported the Landmark Preservation Commission recommendation, and

WHEREAS, after a public hearing held on March 22, 2005, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 215 Elmwood Court is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 215 Elmwood Court is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 215 Elmwood Court has historical significance for the following reason:

This 1933 Mediterranean-style house was originally owned by Dr. J.C. Robertson, founder of Robertson Hospital, one of the three private hospitals located in Modesto until after World War II. Dr. J.C. Robertson formerly lived at 1002 12<sup>th</sup> Street in Modesto around the corner from the hospital that bore the family name. By 1930 the hospital expanded to include the Robertson home. In 1933 Dr. Robertson built the house at 215 Elmwood Court to accommodate his family. His son, Dr. Donald Robertson, kept the hospital until 1950 when it was closed and sold to banking interests. In 1920, Dr. J.C. Robertson and a group of professional and business people purchased the Modesto Herald Newspaper, known at the time as the "official paper of the City of Modesto". The Robertson's contributed tremendously to the medical community of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the property at 215 Elmwood Court has architectural significance as a Mediterranean-style house from the 1930's and is hereby designated a Landmark Preservation Site for the following reason:

Architectural significance-Possessing distinctive characteristics of a style, place, period, method or materials or construction, builder or architect.

Built in 1933, this two-story, Mediterranean-style stuccoed house has a red tile roof with heavy exposed rafters. A medium pitched gable forms an open porch over the side facing entrance, which is a wood-paneled door. A square stuccoed post at the front corner supports the porch. A low-hipped tile roof caps the front two-story portion of the building. A wrought iron balcony is located on the second floor facing the street. Multi-paned casement windows are located on the first floor of the structure and an exterior chimney projects from the gabled one-story section of the house. The opening of the Panama Canal in 1914 and the San Diego Panama Pacific Exposition in 1915 inspired a variety of Mediterranean styles between 1915 and 1940.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder's Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of March, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-161**

**A RESOLUTION APPROVING THE CHANGES TO THE SPRING  
AND SUMMER PARK PROGRAMS, AND APPROVING LIFTING  
THE “HIRING CHILL” TO ALLOW THE PARKS, RECREATION  
AND NEIGHBORHOODS DEPARTMENT TO HIRE PART-TIME  
RECREATION STAFF FOR THE “REVISED” SPRING AND  
SUMMER PARK PROGRAMS.**

WHEREAS, in prior years, the Parks, Recreation and Neighborhoods Department (PR&N) operated Spring, Summer, and Fall Park Programs; these programs operated for 30 weeks from approximately mid-February to mid-November at park sites throughout the City, and

WHEREAS, due to several years of budget reductions, the program originally planned for this upcoming park season has been reduced to a seven-week Spring Program, scheduled from April 25 to June 10, and a nine-week Summer Program scheduled from June 13 to August 19, 2005; during the spring, the program was planned for 11 park sites throughout the City, and the summer program offered at 19 sites, and

WHEREAS, generally, the park sites are staffed with two Recreation Leaders, except Graceada Park, which requires three to four leaders, due to the large daily attendance; both the Spring and Summer programs are funded from the General Fund and include daily youth development activities such as arts and crafts, physical fitness, games, and swimming; the activities also include traveling programs, which features special park visitors, such as the First Tee Program, MJC Great Valley Museum, Bungee Run, Stonehenge Climbing Wall, HART traveling art, Cooking with Christa, Python Ron, and the Pinewood Derby, and

WHEREAS, on February 8, 2005, by Resolution No. 2005-94, the City Council adopted several provisions to help slow spending in the current fiscal year; one of these adopted actions was “implementation of a hiring “chill” for both full and part-time staff for any position with General Fund impact with the exceptions for mission-critical positions only,” and

WHEREAS, in order to staff appropriately for the upcoming Park Programs, the Parks, Recreation and Neighborhoods Department needs to hire a total of 56 Recreation Leaders (28 leaders for the Spring Program and an additional 28 for the Summer Program); the 28 Recreation Leaders for the Spring Program will need to be hired by April 1 in order to be processed and to receive the proper certifications and basic job training; shortly thereafter, the Department will need to hire an additional 28 Recreation Leaders for the Summer Program, and

WHEREAS, on February 23, 2005, the Finance Committee considered the topic of the hiring chill as it relates to the Spring and Summer Park Programs, due to the looming timeline regarding hiring of staff for these programs, and

WHEREAS, after significant discussion, the Finance Committee recommended that PR&N reduce the costs of the Spring and Summer Park Programs by \$80,000 to \$100,000; the proposed program reduction recommendations were to go directly to City Council, rather than return to the Finance Committee, due to the timeliness of the issue, and

WHEREAS, after review, the PR&N is recommending the following program reductions in order to meet current and future budget target figures:

Spring 2005: PR&N is recommending closing all park sites, except for Graceada Park which will be open on Fridays, Saturdays and Sundays only through the spring season (April 25 to June 10); the closure of 10 park sites programs resulting in savings of \$47,000;

Summer 2005-2006: PR&N is recommending closing six of the existing 19 park sites; there will be no staffed park program at these six sites and the wading pools at these parks will be permanently closed and the areas re-landscaped; this recommendation would save approximately \$88,800; however, PR&N is recommending \$58,800 of this saving be used to install a “spray-ground” at Mellis Park and add a staffed recreation program at Orville Wright Park; in total, 14 playground sites will operate during the 2005-2006 summer season, and the net savings for the Summer Park Program will be \$30,000;

Spring 2006: PR&N is recommending following the Spring 2005 schedule and closing all park sites, except for Graceada Park which will be open on Fridays, Saturdays and Sundays only through the spring season; this would result in savings of \$47,000; and

WHEREAS, all the above recommendations will result in the following savings:

Spring 2005:	\$47,000
Summer 2005-2006:	\$30,000
Spring 2006:	\$47,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the changes to the Spring and Summer Park Programs

recommended by the Parks, Recreation and Neighborhoods Department, as more fully set forth herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves lifting the "hiring chill" and authorizes the Parks, Recreation and Neighborhoods Department to hire 56 part-time Recreation staff, 28 Recreation Leaders each for the "revised" Spring and the "revised" Summer Park Programs as more fully set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-162**

**A RESOLUTION APPOINTING KEITH BOGGS TO  
THE PUBLIC EVENTS 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, Councilmember Keating recommended the appointment of KEITH BOGGS to serve on the Public Events Commission to fill the vacancy created by the resignation of DANA PLUMMER.

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

SECTION 1. KEITH BOGGS is hereby appointed to serve on the Public Events Commission to fill the vacancy created by the resignation of DANA PLUMMER.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Public Events 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 5th day of April, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-163**

**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 April 5, 2005 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 5<sup>th</sup> day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

BY: Michael D. Milich  
MICHAEL D. MILICH, 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 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 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
Community Development Program Specialist II	2
Consultant	3
Cultural Services Manager	2
Custodian Supervisor	2
Customer Services Supervisor	2
Deputy Director – Cultural and Enterprise Services	1
Deputy Director – Recreation & Neighborhood Services	1
Events Supervisor I	2
Events Supervisor II	2
Housing Financial Specialist	2
Housing Program Supervisor	2
Housing Rehabilitation Specialist II	2
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 Superintendent	1

Recreation Supervisor II	2
Recycling Program Coordinator	1
Senior Building Inspector	2
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. 2005-164**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO  
AMENDING THE 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 April 5, 2005 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 5<sup>th</sup> day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CONFLICT OF INTEREST CODE  
OF THE  
PUBLIC WORKS DEPARTMENT  
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 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
Land Surveyor	1
Public Works Director	1
Operations & Maintenance Supervisor (Org #s 5012-5016,5212, 5312 only)	2
Regulatory Compliance Supervisor	1
SCADA Supervisor	2
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

Water Quality Control Operations Supervisor	2
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. 2005-165**

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH GEORGE BRITTON TO SERVE AS CITY MANAGER OF THE CITY OF MODESTO UNTIL JULY 1, 2007, AT AN ANNUAL SALARY OF \$154,010.00**

WHEREAS, on March 22, 2005, the City Council on a 5 to 1 vote appointed then Acting City Manager George Britton as City Manager, and

WHEREAS, the City Council desires to enter into an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of \$154,010.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of \$154,010.00. Said employment agreement is attached hereto as Exhibit "A" and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CITY OF MODESTO - GEORGE W. BRITTON  
EMPLOYMENT AGREEMENT**

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# EMPLOYMENT AGREEMENT

## Introduction

This agreement, made and entered into this 5th day of April, 2005, by and between the CITY OF MODESTO, a municipal corporation, (hereinafter called "Employer"), and GEORGE W. BRITTON (hereinafter called "Employee"), an individual who has the California education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

## Section 1: Term

The term of this Agreement shall be for an initial period of two (2) years and approximately four (4) months from April 5, 2005, to July 1, 2007. This Agreement shall automatically be renewed on its anniversary date for a one (1) year term unless notice that the Agreement shall terminate is given at least four (4) months before the expiration date. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

## Section 2: Duties and Authority

Employer agrees to employ George W. Britton as City Manager to perform the functions and duties specified in the Modesto Charter and the California Government Code, and to perform other legally permissible and proper duties and functions.

## Section 3: Compensation

- A. Base Salary: Employer agrees to pay Employee an annual base salary of One Hundred Fifty Four Thousand Ten Dollars (\$154,010.00) payable in installments at the same time that the other employees of the Employer are paid.
- B. Consideration shall be given on an annual basis to increase compensation.

## Section 4: Disability and Life Insurance Benefits

- A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other Management and Confidential employees of the City of Modesto or, in the event no such plan exists, to provide coverage for the Employee and dependents.
- B. The Employer agrees to put into force and to make required premium payments for long term disability coverage for the Employee.
- C. The Employee may elect to submit once per calendar year to a complete physical examination by the City medical provider or by the Employee's physician under the Employee's group insurance plan with City reimbursement for Employee's out-of-pocket costs.
- D. The Employer shall pay the amount of premium due for a term life insurance policy of \$120,000. The Employee shall name the beneficiary of the life insurance policy.

### **Section 5: Vacation, Sick, and Management/Executive Leave**

- A. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees.
- B. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, management/executive leave, and other benefits to date.
- C. The Employee shall on January 1<sup>st</sup> of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

### **Section 6: Automobile**

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$4,800.00 per year, payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

### **Section 7: Retirement**

- A. The Employer agrees to enroll the Employee into the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay 0.40% of the total 7% "Employee's share," and Employer shall pay 100% of "Employer's share" on behalf of the Employee.
- B. In addition to the Employer's payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to one and one-half percent (1.5%) of Employee's base salary, or greater, into the designated plan on the Employee's behalf, in equal proportionate amounts each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.
- C. The Employer shall adopt a qualified 401(a) defined contribution plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute four (4%) of salary. Employee shall match the Employer's contribution.



### **Section 8: General Business Expenses**

- A. In its discretion, Employer shall budget for and pay travel and subsistence expenses of Employee for professional and official travel, meetings, courses, institutes and seminars to continue his professional development and to adequately pursue necessary official and other functions on behalf of the Employer, including but not limited to the annual conference of the League of California Cities.
- B. The Employer acknowledges the value of having Employee, in its discretion, participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

### **Section 9: Termination**

For the purpose of this Agreement, termination shall occur when:

- A. The majority of the governing body votes to terminate the Employee at a duly authorized closed or open meeting.
- B. If the Employer, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.
- C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all city employees, such action shall constitute a breach of this Agreement and will be regarded as a termination.
- D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.
- E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

### **Section 10: Severance**

- A. Severance shall be paid to the Employee when employment is terminated as defined in Section 9.
- B. In the event the Employer terminates this agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:
  - 1. Provide Employee with one hundred thirty-five (135) days prior written notice of said termination. Provided, however, that as set forth in Section 800 of the City's Charter no such determination to terminate shall be made during or within a period of ninety (90) days next succeeding the election of a member of the Council.

**Section 11: Resignation**

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 60 days advance notice unless the parties agree otherwise.

**Section 12: Performance Evaluation**

Employer shall annually review the performance of the Employee in January subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

**Section 13: Hours of Work**

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

**Section 14: Outside Activities**

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect, with the approval of the City Council, to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

**Section 15: Residency**

Employee agrees to maintain residence within the corporate boundaries of the City of Modesto.

**Section 16: Indemnification**

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise or settle a claim or suit. However, if the Employee is a named party to the suit, Employee's written consent must be given for the compromise or settlement. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation if those services occur after Employee is no longer an Employee of the Employer.

**Section 17: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 18: Other Terms and Conditions of Employment**

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

**Section 19: Notices**

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P. O. Box 642, Modesto, CA 95353  
EMPLOYEE: George W. Britton, 1008 Copper Lake Court, Modesto, CA 95355-8905

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**Section 20: General Provisions**

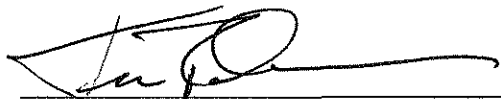
- A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.
- B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.
- C. Effective Date. This Agreement shall become effective on April 5, 2005.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attestation by its City Clerk under authority of Resolution No. 2005-165 adopted by the Council of the City of Modesto on the 5 day of April, 2005, and CONTRACTOR/EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO  
A Municipal Corporation

CONTRACTOR/EMPLOYEE

  
\_\_\_\_\_  
By: Jim Ridenour, Mayor

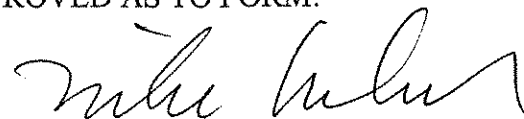
  
\_\_\_\_\_  
George W. Britton

ATTEST:

By:   
\_\_\_\_\_  
Jean Zahn, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-166**

**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 March 7, 2005, and recommended appointment of AMY CHRISTENSEN and HARINDER GREWAL to the Equal Opportunity/Disability Commission and JOE MENDOZA to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission, and

WHEREAS, by Resolution No. 2005-136, said appointments were erroneously made as joint appointments to the Equal Opportunity/Disability Commission and the Human Relations Commission, and

WHEREAS, JOE MENDOZA is the only appointee to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission.

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

SECTION 1. AMY CHRISTENSEN and HARINDER GREWAL are hereby appointed to the Equal Opportunity/Disability Commission, with term expirations of January 1, 2009, and JOE MENDOZA is hereby appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission with a term expiration of January 1, 2008.

**AMENDED FOR CLERICAL ERROR**

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 5<sup>th</sup> day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

ATTEST: : Jean Zahr  
JEAN ZAHR, City Clerk

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-167**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 5th day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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

*Jean Zahr*  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

*Michael D. Milich*  
MICHAEL D. MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tina Rocha  
 Telephone No.: Ext. 75321  
 Department: Office of the City Manager

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

Fund Title: \_\_\_\_\_  
 CFD No. 1996-1 (Village One)

FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<b>FROM</b>					
2600-800-8000-8208			(\$1,292,100)	(\$1,292,100)	Reserve: One-Time Facilities
1410-800-8000-8003			(\$60,000)	(\$60,000)	Streets CFF Reserves
		<b>TOTAL</b>	<b>(\$1,352,100)</b>	<b>(\$1,352,100)</b>	
<b>TO</b>					
2600-020-A107-6010		\$238,000	\$75,400	\$313,400	Engineering Design/Admin - CIP
2600-020-A107-6030		\$903,000	\$269,500	\$1,172,500	ROW Acquisition - CIP
2600-020-A107-6040		\$2,376,000	\$817,800	\$3,193,800	Construction - CIP
2600-020-A107-6050		\$356,000	\$114,000	\$470,000	Construction Contingency - CIP
2600-020-A107-6060		\$238,000	\$75,400	\$313,400	Construction Admin. - CIP
		<b>TOTAL</b>	<b>\$1,352,100</b>	<b>\$783,400</b>	

**TRANSFERS**

<b>FROM</b>					
1410-800-A107-7260			\$60,000	\$60,000	Transfer to Village One
<b>TO</b>					
2600-020-A107-9141			\$60,000	\$60,000	Transfer from Streets CFF

**COMMENTS/JUSTIFICATION**

The budget for this Floyd Ave. widening project was recently modified in a Village One Facilities Master Plan Update. This budget adjustment includes \$60,000 from Streets CFF for the Floyd Oakdale Signal modification.

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. 2005-168**

**A RESOLUTION ALLOCATING A NEW POLICE OFFICER POSITION TO  
THE MODESTO POLICE DEPARTMENT TO WORK ON THE HIGH RISK  
INTERVENTION TEAM**

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with at-risk juveniles who are on probation and show promise of rehabilitation, 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 with the juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for all costs of the Police Officer, salary, benefits and incentives, and will reimburse the City of Modesto for said costs estimated at \$85,000 annually, and

WHEREAS, the High Risk Intervention Team program is scheduled to begin in May, 2005, and

WHEREAS, the Safety and Communities Committee, at its meeting of February 28, 2005, unanimously supported this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the Position Allocation for the Modesto Police Department be increased by one Police Officer who will be assigned to work on the High Risk Intervention Team.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary allocation increase.

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 April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-169**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
REALIZE REVENUE AND EXPEND FUNDS FOR A MODESTO POLICE  
OFFICER TO SERVE ON THE HIGH RISK INTERVENTION TEAM**

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with at-risk juveniles who are on probation and show promise of rehabilitation, 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 with the juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for all costs of the Police Officer, salary, benefits and incentives, estimated at \$85,000 annually, and will reimburse the City of Modesto for said costs and

WHEREAS, the High Risk Intervention Team program is scheduled to begin in May, 2005, and

WHEREAS, the Safety and Communities Committee, at its meeting of February 28, 2005, unanimously supported this action, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-191-0110	\$14,166	Salaries and Benefits
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Revenue:

To: 0100-190-1921-3727 \$14,166 School-PD  
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 5<sup>th</sup> day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-170**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT PROPOSALS FOR CONSULTANT SERVICES TO ASSIST IN DEVELOPMENT OF A REQUEST FOR PROPOSALS (RFP) FOR A VENDOR TO DESIGN, BUILD, OWN AND OPERATE A METHANE GAS FIRED COGENERATION UNIT AT THE PRIMARY WASTEWATER TREATMENT FACILITY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONSULTANT AGREEMENT IN AN AMOUNT NOT TO EXCEED \$50,000**

WHEREAS, methane is a byproduct of the wastewater treatment process, and

WHEREAS, the Primary Wastewater Treatment Facility does not fully use the methane gas generated from the treatment plant's digesters, and

WHEREAS, installation of a cogeneration unit at the Primary Wastewater Treatment Facility would allow methane gas to be used to provide energy, including heat, for the Treatment Plant, and

WHEREAS, the proposed cogeneration unit would be designed, built, owned and operated by the selected vendor with no financial input by the City, and

WHEREAS, the City would not provide funding for the project, and

WHEREAS, the City would, however, recognize an offset to revenues based on the reduction in natural gas usage and a partnership with Modesto Irrigation District (MID), and

WHEREAS, due to the nature of the project, its complexity and the need for a collaborative relationship with MID, the Public Works Department wishes to seek the services of a consultant with significant experience in developing specifications and contracts for cogeneration projects to assist in the development of the RFP for the selection of vendors for this project, and

WHEREAS, consultation services are essential for staff to develop appropriate specifications and to conduct a selection process that ensures the City is benefiting to the maximum extent possible from this project, while minimizing liability, and

WHEREAS, staff must also ensure that the project is developed in such a way as to gain support for MID's renewable energy benefit, and

WHEREAS, use of a consultant can provide experienced staff and a quick turn-around for this project, thereby improving efficiency and energy conservation at the Primary Wastewater Treatment Facility, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 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, Water Quality Control Division to solicit proposals for consultant services to assist in development of a Request for Proposals (RFP) for a vendor to design, build, own, and operate a methane gas fired cogeneration unit at the Primary Wastewater Treatment Facility and authorize the City Manager, or his designee, to execute the consultant agreement in an amount not to exceed \$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 April, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-171**

**RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT A REQUEST FOR PROPOSALS (RFP) FOR THE DEVELOPMENT AND IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM FOR THE STORMWATER AND WASTEWATER COLLECTIONS DIVISION FOR A ONE-YEAR AGREEMENT WITH TWO (2), ONE-YEAR EXTENSION OPTIONS**

WHEREAS, the Environmental Protection Agency requires all municipalities with populations exceeding 100,000 to apply for a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit, and

WHEREAS, the NPDES permit establishes the requirements for reducing pollutant runoff into the City's storm drains, which eventually enters either rockwells and/or local waterways, and

WHEREAS, as part of the City's current NPDES Stormwater Permit, the City was mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management Program, and

WHEREAS, the City completed and adopted its SWMP in September 2003, and

WHEREAS, the City must conduct a monitoring program to characterize the runoff from the City and its impact on local waterways, and

WHEREAS, Stormwater Management Program consultant services provided by a firm with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, annual costs for these services are estimated to be:

Fiscal Year 2004/2005 \$180,000

Fiscal Year 2005/2006 \$185,000

Fiscal Year 2006/2007 \$193,000

, and



WHEREAS, the City desires a one-year agreement for consultant services, with two (2) one-year extension options, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 meeting and recommended 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 solicit Request for Proposals (RFP) for the development and implementation of a Stormwater Management Program for the Stormwater and Wastewater Collections Division for a one-year agreement with 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 5<sup>th</sup> day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-172**

**RESOLUTION AUTHORIZING AN APPROPRIATION TRANSFER OF \$50,000  
FROM STORM DRAINAGE RESERVES (6280-800-8000-8003) TO STORM  
DRAINAGE ADMIN/MONITORING (6280-480-5314-0235) TO FULLY FUND  
THE STORMWATER MANAGEMENT PROGRAM FOR FISCAL YEAR 2004-  
2005**

WHEREAS, as part of the City's current NPDES Stormwater Permit, the City was mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management Program, and

WHEREAS, Stormwater Management Program consultant services provided by a firm with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, annual costs for these services are estimated to be:

Fiscal Year 2004/2005 \$180,000

Fiscal Year 2005/2006 \$185,000

Fiscal Year 2006/2007 \$193,000

, and

WHEREAS, award of the contract for Fiscal Year 2004-2005 will require a transfer of \$50,000 from Storm Drain Reserve Funds (6280-800-8000-8003) to Storm Drainage Admin/Monitoring (6280-480-5314-0235) to fully fund the Stormwater Management Program, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 meeting and recommended consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of \$50,000 from Storm Drain Reserve Funds (6280-

800-8000-8003) to Storm Drainage Admin/Monitoring (6280-480-5314-0235) to fully fund the Stormwater Management Program for Fiscal Year 2004-2005.

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 April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-173**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$172,500.00  
CONTRACT WITH VANGUARD CONSTRUCTION, FOR THE PROJECT  
TITLED, "2004 ADA CURB RAMP CONSTRUCTION" AND AUTHORIZING  
THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the bids received for "2004 ADA Curb Ramp Construction" were opened at 11:00 a.m. on March 15, 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 \$172,500.00 received from Vanguard Construction, be accepted as the lowest responsible bid and the contract be awarded to Vanguard Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Vanguard Construction, in the amount of \$172,500.00, and hereby awards Vanguard Construction, the contract titled "2004 ADA Curb Ramp Construction."

BE IT FURTHER RESOLVED that the Acting 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 April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-174**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$205,499.00 CONTRACT WITH RODGERS CONSTRUCTION AND ENGINEERING COMPANY, INC., FOR THE PROJECT TITLED, "SCENIC DRIVE AND BODEM STREET RIGHT TURN LANE - CML-5059 (104)," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.**

WHEREAS, the bids received for "Scenic Drive and Bodem Street Right Turn Lane - CML-5059 (104)" were opened at 11:00 a.m. on March 8, 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 \$205,499.00 received from Rodgers Construction and Engineering, Inc., be accepted as the lowest responsible bid and the contract be awarded to Rodgers Construction and Engineering, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Rodgers Construction and Engineering, Inc., in the amount of \$205,499.00, and hereby awards Rodgers Construction and Engineering, Inc., the contract titled "Scenic Drive and Bodem Street Right Turn Lane - CML-5059 (104)."

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 April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-175**

**A RESOLUTION ACCEPTING THE WORK BY GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR THE "USTACH NEIGHBORHOOD PARK" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$1,126,248.27 PER THE CONTRACT. TOTAL PROJECT COST IS \$1,340,336.93**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Ustach Neighborhood Park" has been completed by Goodland Landscape Construction, Inc., in accordance with the contract agreement dated June 24, 2003,

NOW, THEREFORE, BE IT RESOLVED that the "Ustach Neighborhood Park" project be accepted from said contractor, Goodland Landscape Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,126,248.27, 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 April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-176

RESOLUTION ACCEPTING THE WORK BY RICHARD TOWNSEND  
CONSTRUCTION, INC., DBA RTC, FOR THE "MODESTO POLICE  
DEPARTMENT TRAINING FACILITY CONCRETE FLATWORK" PROJECT  
AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF  
COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE  
TOTALING \$86,947.60 PER THE CONTRACT. TOTAL PROJECT COST IS  
\$94,568.73

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modesto Police Department Training Facility Concrete Flatwork" has been completed by Richard Townsend Construction, Inc., dba RTC, in accordance with the contract agreement dated December 14, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Modesto Police Department Training Facility Concrete Flatwork" project be accepted from said contractor, Richard Townsend Construction, Inc., dba RTC, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$86,947.60 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 April, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-177**

**A RESOLUTION APPROVING A FIVE (5) YEAR CONTRACT WITH THE  
INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT  
CORPORATION (ICMA-RC) FOR THE ADMINISTRATION OF CITY  
EMPLOYEES' 401(A) AND 457 DEFERRED COMPENSATION PLANS AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

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

WHEREAS, the City of Modesto requires administration of this program, and

WHEREAS, The International City Management Association Retirement Corporation (ICMA-RC) has worked with the City of Modesto to deliver excellent service, and

WHEREAS, the ICMA-RC has eliminated the administrative fee charged to employees, and

WHEREAS, the ICMA-RC working in conjunction with the City's Deferred Compensation Committee has enabled the City to stay current on legislative changes affecting the plans, and

WHEREAS, the ICMA-RC has introduced new offerings, allowing City of Modesto employees to maximize their contributions, and

WHEREAS, to help offset City's internal cost of plan administration, ICMA will pay City an administrative allowance in the amount of \$20,000 per year in the first and second year of the Agreement and \$35,000 per year in the third, fourth, and fifth year of the Agreement,

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

that it hereby authorizes the award of a five (5) year agreement with the ICMA-RC a copy of which will be on file in the office of the City Clerk.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-178**

**A RESOLUTION RE-APPROPRIATING FUNDS FROM SEWER FUND  
OPERATING ACCOUNTS, EXISTING SEWER CAPITAL IMPROVEMENT  
(CIP) PROJECTS, AND PCE LITIGATION REIMBURSEMENTS TO THE  
CELESTE/ROSE/SCENIC SEWER IMPROVEMENTS CIP (6210-430-A049) TO  
COMPLETE IMPROVEMENTS SPECIFIED IN AN OCTOBER 2003  
AGREEMENT WITH MEMORIAL HOSPITALS ASSOCIATION**

WHEREAS, Memorial Hospitals Association (Memorial) approached the City about a significant hospital expansion in 2003, and

WHEREAS, a capacity study was conducted on the Rose-Celeste Sewer Trunk line that would receive the hospital's wastewater discharges, and

WHEREAS, the study determined the lines and lift stations were already above capacity and the main trunk line was deteriorating, and

WHEREAS, it was determined that \$4.1 million in improvements was needed to relieve capacity issues and provide additional discharges for the hospital expansion, and

WHEREAS, the fair share of the improvements for Memorial's expansion was determined to be \$439,000, and

WHEREAS, in October 2003 an agreement specifying the \$439,000 contribution of Memorial, the construction of the improvements by the City, and a completion date of March 2006 was approved by Council, and

WHEREAS, Memorial paid to the City its contribution amount of \$439,000 to the overall project, subsequent to the Council action, and

WHEREAS, a funding source for these improvements was not identified in the Council action and it was anticipated the Sewer Reserve Funds would fund a significant portion of the cost, and

WHEREAS, Council adopted the Capital Improvement Program (CIP) in October 2004 which included Celeste/Rose/Scenic Sewer Improvements Project (6210-430-A049) estimated at \$5.3 million to expand the Rose-Celeste Trunk Line, and

WHEREAS, due to the agreement with Memorial, staff has identified this project as a priority CIP for 2004-05 and \$400,000 is allocated for the design phase of this project, and

WHEREAS, Sewer Fund Reserve funds are not adequate to support this project due to unanticipated expenditures related to PCE litigation, and

WHEREAS, the City has received some significant PCE expenditure reimbursements, and

WHEREAS, staff proposes to defer projects and reallocate funds from operating and CIP accounts, as well as funds from PCE litigation reimbursements to fund the Celeste/Rose/Scenic Sewer Improvements Project as follows:

Sewer Fund Operating:

6210-480-5225-0235	\$200,000	Lift Station Rehab
6210-480-5226-0360	\$100,000	Annual Renewal/Replacement Primary
6210-480-5227-0360	\$500,000	Annual Renewal/Replacement Secondary

CIP

6210-480-M244-6030	\$761,000	Land acquisition for Secondary Site (partially funded)
6210-430-N143-6040	\$400,000	Shackelford Crossing

Other

6210-440-5202-8121	\$2,500,000	PCE litigation settlements
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, and

WHEREAS, while deferral of the above-listed projects is not desirable, however, to fulfill the agreement with Memorial, funds must be reallocated to accomplish the agreed upon improvements, and

WHEREAS, re-appropriating this funding along with Memorial's contribution of \$439,000 will fully fund the Celeste/Rose/Scenic Improvements project (6210-430-A049) and fulfill the City's agreement with Memorial, and

WHEREAS, at its meeting of February 23, 2005, the Finance Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes re-appropriating funds to fully fund the Celeste/Rose/Scenic Sewer Improvements project as follows:

Sewer Fund Operating:

6210-480-5225-0235	\$200,000	Lift Station Rehab
6210-480-5226-0360	\$100,000	Annual Renewal/Replacement Primary
6210-480-5227-0360	\$500,000	Annual Renewal/Replacement Secondary

CIP

6210-480-M244-6030	\$761,000	Land acquisition for Secondary Site (partially funded)
6210-430-N143-6040	\$400,000	Shackelford Crossing

Other

6210-440-5202-8121	\$2,500,000	PCE litigation settlements.
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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 5th day of April 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-179**

**A RESOLUTION DENYING THE APPEAL AND REQUESTING THE APPELLANT TO WORK WITH STAFF ON MITIGATION MEASURES, AND RETURN TO COUNCIL WITH AN UPDATED TRAFFIC STUDY WITH THE \$10 MILLION INSURANCE POLICY REMAINING IN PLACE UNTIL THE TRAFFIC STUDY IS RETURNED**

WHEREAS, on August 27, 2002, the Modesto City Council adopted Resolution No. 2002-424 approving the Pelandale Access Agreement for the O'Brien Center located at the southeast corner of Pelandale Expressway and Dale Road, and

WHEREAS, this agreement required O'Brien's Development to hold general liability insurance for this property with a minimum limit of liability per occurrence of ten million dollars (\$10,000,000) for bodily injury and one million dollars (\$1,000,000) for property damage or ten million dollars (\$10,000,000) combined single limit, and

WHEREAS, on March 5, 2005, the City of Modesto received a request from Dennis E. Wilson, representing Mr. Chuck O'Brien of the O'Brien's Center, to reduce the ten million dollar (\$10,000,000) insurance requirement, and

WHEREAS, Dowling and Associates prepared the traffic study as required by the Pelandale Access Agreement, and

WHEREAS, the consultant observed illegal turning movements into and out of the O'Brien's Development Pelandale access, and

WHEREAS, the results of this study do not support a reduction of the liability insurance requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the O'Brien's Development appeal is denied.



BE IT FURTHER RESOLVED that the appellant is requested to work with staff on mitigation measures and return to Council with an updated traffic study.

BE IT FURTHER RESOLVED that the ten million dollar (\$10,000,000) insurance policy remains in place until the traffic study is returned.

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 April 2005, 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, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-180**

**A RESOLUTION ISSUING A WRITTEN REPORT DESCRIBING THE MEASURES TAKEN TO ALLEVIATE THE CONDITION WHICH LEAD TO THE ADOPTION OF AN EMERGENCY INTERIM ORDINANCE, ORDINANCE NO. 3383 (WHICH PROHIBITED THE ESTABLISHMENT OF NEW MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF MODESTO)**

WHEREAS, on March 8, 2005, the Modesto City Council adopted an Emergency Interim Ordinance (Ordinance No. 3383), and

WHEREAS, Interim Ordinance No. 3383 was adopted pursuant to the authority conferred upon the City by California Government Code Section 65858, and

WHEREAS, subdivision (d) of California Government Code Section 65858 requires the City Council to issue a written report describing the measures taken to alleviate the condition which lead to the adoption of the Interim Ordinance ten (10) days prior to the expiration of the Interim Ordinance, and

WHEREAS, the Modesto City Attorney has prepared such a report for issuance by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby issues the attached written report which describes the measures taken by the City to alleviate the conditions which lead to the adoption of Interim Ordinance No. 3383.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-181**

**A RESOLUTION AMENDING THE 2004-2005 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, 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 six Issue and Action items in the 2004-2005 Legislative Platform be amended as more fully set forth in an agenda report from City Manager, George W. Britton, to the Mayor and Council, dated April 19, 2005, and

WHEREAS, the City Council, after hearing staff's presentation at the April 26, 2005, City Council meeting, requested that Issue and Action 4.5 be added to the 2004-2005 Legislative Platform as described below.

**Issue: 4.5.** Design and construction standards for schools are a responsibility of the State. Many schools have been built and are being built with only one all-weather access road. As a result significant traffic congestion occurs during the times of day when parents drop-off and pick-up their children. In the event of an emergency situation this traffic congestion could impede the timely response of emergency service providers.

**Action: 4.5.** Support legislation that encourages school districts to make all possible efforts to have two all-weather access roads installed at every school. This will help ensure adequate emergency response, improve traffic flows, and reduce air pollution from idling vehicles during the peak traffic periods.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the 2004-2005 Legislative Platform as set forth in said agenda report from the City Manager to the Mayor and Council dated April 19, 2005.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby amends the 2004-2005 Legislative Platform to also include Issue and Action 4.5 as described above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, 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: Council members: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Council members: None

ABSENT: Council members: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-182**

**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. 7)**

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, 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, and

WHEREAS, on February 1, 2005, the City Council adopted Resolution No. 2005-073 which declared the City's Intention to Annex territory to Community Facilities District No. 2004-1 (Village One #2) and to authorize the levy of special taxes therein, and set a public hearing on the Resolution for March 8, 2005, at 5:30 p.m. or as soon thereafter as practicable, and

WHEREAS, on February 4, 2005, the boundary map for Annexation No. 7 to Community Facilities District 2004-1 (Village One #2) was recorded in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 9, in the Office of the Stanislaus County Clerk-Recorder, and

WHEREAS, the March 8, 2005, public hearing was dropped from calendar due to anticipated changes in the annexation proposal, and

WHEREAS, more than sixty (60) days have now elapsed since the adoption of Resolution No. 2005-073 without the conducting of a public hearing on the Resolution of Intention, as required by Government Code Section 53321, and

WHEREAS, the boundary map for Annexation No. 7 to Community Facilities District 2004-1 (Village One #2) has been modified to reduce the acreage proposed to be annexed to the District and to reflect the current Assessor's Parcel Number for the property, and



WHEREAS, Streets and Highways Code Section 3113 authorizes a legislative body to modify the boundaries of a district shown on a previously filed map by reference to an amended map of the district boundary and approval by resolution of the amended map, and

WHEREAS, the City has determined that it is in the best interests of the District to rescind Resolution No. 2004-073, to adopt a new Resolution of Intention to annex the territory shown in the amended boundary map for Annexation No. 7, and to approve the amended boundary map for Annexation No. 7.

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 “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community

Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; and the map entitled “Annexation Map No. 5 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 2; and the map entitled Annexation Map No. 6 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 7

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. 7 of Community Facilities District No. 2004-1 (Village One #2), As Amended, of the 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 and a reference to the previously recorded Map of Annexation No. 7.

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 14, 2005, 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.

NOW, THEREFORE, BE IT FURTHER RESOLVED that Resolution No. 2005-073, adopted on February 1, 2005, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT A

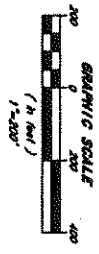
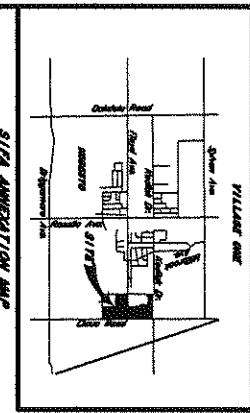
ANNEXATION NO. 7 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map

# ANNEXATION MAP NO. 7

OF COMMUNITY FACILITIES DISTRICT  
 NO. 8004-1 (VILLAGE ONE RE), AS AMENDED  
 CITY OF MODESTO COUNTY OF STANISLAUS  
 STATE OF CALIFORNIA

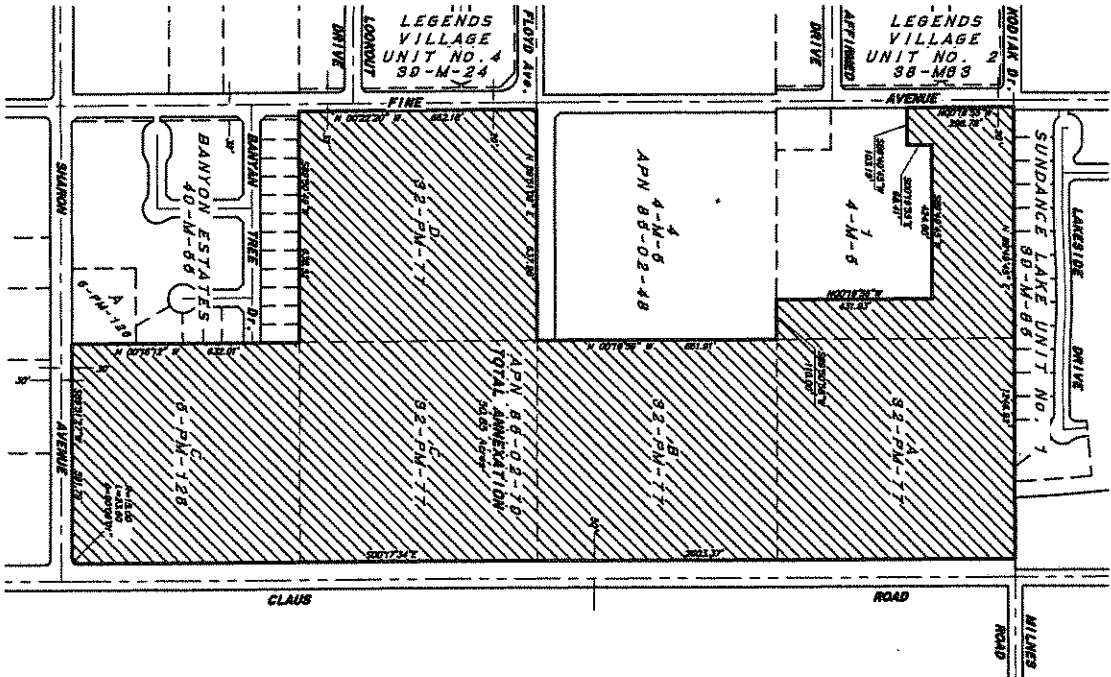
DATE: 1-28-2005  
 TITLE: 8004-1 (VILLAGE ONE RE)  
 DRAWN BY: JAMES W. BERRY  
 CHECKED BY: JAMES W. BERRY  
 (509) 538-4174



## LEGENDS

The location of N 88°07'21" W Station GPS monument 2028 and 2027 or shown on the 2004 Assessor's Record of the Stanislaus County Recorder, or on the 2004 Assessor's Record of Stanislaus County Records, was used as the basis for all bearings shown hereon.

Distances shown hereon have been converted from GSD to Geoid.



I hereby certify that this map showing the proposed boundaries of Annexation No. 7 to the City of Modesto Community Facilities District No. 8004-1 (Village One Re), City of Modesto County of Stanislaus, State of California, was approved by the City Council of the City of Modesto of a regular meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_, 2005. By its resolution No. \_\_\_\_\_

LEW ZANK, City Clerk

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

This is an amended map of the one proposed to be annexed to the City of Modesto Community Facilities District No. 8004-1 (Village One Re), City of Modesto County of Stanislaus, State of California, the boundary map for which was recorded in Book 25 of Assessor's Maps and Community Facilities Districts of the County of Stanislaus, State of California, at Page 68. A map of Annexation No. 1 to the District was recorded on May 23, 2004. A map of Annexation No. 2 to the District was recorded on May 23, 2004. A map of Annexation No. 3 to the District was recorded on May 14, 2004. A map of Annexation No. 4 to the District was recorded on May 14, 2004. A map of Annexation No. 5 to the District was recorded on May 14, 2004. A map of Annexation No. 6 to the District was recorded on May 14, 2004. A map of Annexation No. 7 to the District was recorded on May 14, 2004. A map of Annexation No. 8 to the District was recorded on May 14, 2004. A map of Annexation No. 9 to the District was recorded on May 14, 2004. A map of Annexation No. 10 to the District was recorded on May 14, 2004. A map of Annexation No. 11 to the District was recorded on May 14, 2004. A map of Annexation No. 12 to the District was recorded on May 14, 2004. A map of Annexation No. 13 to the District was recorded on May 14, 2004. A map of Annexation No. 14 to the District was recorded on May 14, 2004. A map of Annexation No. 15 to the District was recorded on May 14, 2004. A map of Annexation No. 16 to the District was recorded on May 14, 2004. A map of Annexation No. 17 to the District was recorded on May 14, 2004. A map of Annexation No. 18 to the District was recorded on May 14, 2004. A map of Annexation No. 19 to the District was recorded on May 14, 2004. A map of Annexation No. 20 to the District was recorded on May 14, 2004. A map of Annexation No. 21 to the District was recorded on May 14, 2004. A map of Annexation No. 22 to the District was recorded on May 14, 2004. A map of Annexation No. 23 to the District was recorded on May 14, 2004. A map of Annexation No. 24 to the District was recorded on May 14, 2004. A map of Annexation No. 25 to the District was recorded on May 14, 2004. A map of Annexation No. 26 to the District was recorded on May 14, 2004. A map of Annexation No. 27 to the District was recorded on May 14, 2004. A map of Annexation No. 28 to the District was recorded on May 14, 2004. A map of Annexation No. 29 to the District was recorded on May 14, 2004. A map of Annexation No. 30 to the District was recorded on May 14, 2004.

Filed this \_\_\_\_ day of \_\_\_\_\_, 2005, at the hour of \_\_\_\_\_, in Book \_\_\_\_ of Assessor's Maps and Community Facilities Districts of the County of Stanislaus, State of California, in the Office of the County Recorder of the County of Stanislaus, State of California.

LEE LANGRISH, County Recorder of the County of Stanislaus, State of California

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-183**

**A RESOLUTION GRANTING A TEMPORARY EXCEPTION TO THE  
MODESTO MUNICIPAL CODE (MMC) SECTION 4-5.10 PROHIBITING  
ADVERTISING BANNERS, IN ORDER TO HANG A BANNER OVER J  
STREET FROM JUNE 1 THROUGH JUNE 30, 2005 CELEBRATING AND  
COMMEMORATING “GRAFFITI SUMMER” AND MODESTO’S DEEP  
“GRAFFITI” HISTORY DURING THE MONTH OF JUNE 2005**

WHEREAS, the City of Modesto has a deep “Graffiti” history as a result of Modesto native George Lucas’ production of “American Graffiti”, and

WHEREAS, this “Graffiti” history brings tremendous cultural memories to the City, and

WHEREAS, to celebrate and commemorate the deep “Graffiti” history that exists in Modesto, the Graffiti Summer Task Force proposes hanging a banner, and

WHEREAS, the proposed location for said banner is across J Street, between 13th and 16<sup>th</sup> Street, and

WHEREAS, the proposed banner, which will be 20-30 feet long and 2-1/2 feet tall, will be in place from June 1 through June 30, 2005, and

WHEREAS, the lettering on the proposed banner will read:

“Graffiti Summer June 2005, Welcome to Modesto”

, and

WHEREAS, Section 4-5.10 of the Modesto Municipal Code prohibits advertising devices from being stretched across City streets, and

WHEREAS, this temporary exception to the Modesto Municipal Code celebrates and commemorates the City’s deep “Graffiti” history, and



WHEREAS, the Graffiti Summer Task Force will acquire permission from the private property owners to hang the banner, and

WHEREAS, the Graffiti Summer Task Force will provide 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, and

WHEREAS, the Graffiti Summer Task Force will provide a Certificate of Insurance naming the City of Modesto as an additional insured, and

WHEREAS, this proof of insurance must be delivered to the City prior to installation of the banner, and

WHEREAS, the Graffiti Summer Task Force will install the banner no earlier than June 1, 2005, and

WHEREAS, the Graffiti Summer Task Force will remove the banner no later than the late evening of June 30, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby grants a temporary exception to MMC Section 4-5.10 prohibiting advertising banners in order for the Graffiti Summer Task Force to hang a banner over J Street from June 1 through June 30, 2005, celebrating and commemorating Modesto's deep "Graffiti" history.

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-184**

**A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING  
CORPORATION FOR THE PREPARATION OF A TRAFFIC STUDY AND  
BIOLOGICAL STUDY FOR THE ENVIRONMENTAL IMPACT REPORT FOR THE  
PROPOSED TIVOLI (FORMERLY ROSELLE NEIGHBORHOOD) SPECIFIC PLAN  
PROJECT/ VINTNERS SQUARE SHOPPING CENTER, AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO  
EXCEED \$179,679.00**

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 460-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 Roselle Neighborhood Specific Plan will also involve the following associated entitlements: rezoning to a Specific Plan-Overlay (SP-O) Zone; Annexation; a General Plan Amendment to 1) reclassify Claratina Avenue from a 4-lane expressway to a 6-lane Principal Arterial, 2) change the General Plan land use designation from Village Residential (VR) to Regional Commercial (RC) for about 66 acres located at the southeast corner of the future intersection of Claratina Avenue and Oakdale Road, and 3) allow Village Residential development to exceed the recommended density of 5.1 units per gross acre; preparation of a Facilities Master Plan and associated Finance plan, formation of a Capital Facilities District (CFD), a Conditional Use Permit for a 730,000-square-foot regional commercial center, referred to as Vintners Square, on a 66-acre site located at the southeast corner of the future intersection of Claratina Avenue and Oakdale Road, and applicable subsequent approvals such as Tentative

Subdivision or Parcel Maps, other Conditional Use Permits or plan approvals, and abandonment of a portion of Mable Avenue, 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 (formerly Roselle Neighborhood) 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 (formerly Roselle Neighborhood) 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 (formerly Roselle Neighborhood) Specific Plan, and

WHEREAS, City Staff have negotiated a scope of work for the second phase of the contract, involving preparation of the Traffic Study and Biological Study on the Tivoli (formerly Roselle Neighborhood) is a subsequent phase of the environmental review to be an amount not to exceed \$179,679.00, and

WHEREAS, City staff will be returning to Council for a contract amendment for a third phase of work for preparation of the Draft EIR and Final EIR,

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 Turnstone Consulting Corporation for the preparation of a Traffic Study and Biological Study in support of the proposed Environmental Impact Report for the proposed Tivoli (formerly Roselle Neighborhood) Specific Plan/Vintners Square Development is hereby approved, in an amount not to exceed \$179,679.00.

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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-185**

**A RESOLUTION APPROVING GARBAGE BILLING CONTRACTS BETWEEN  
THE CITY OF MODESTO, WASTE MANAGEMENT HOLDING, INC., GILTON  
SOLID WASTE MANAGEMENT AND BERTOLOTTI MODESTO DISPOSAL,  
INC.**

WHEREAS, the City of Modesto has contracted with local garbage collection companies to provide billing services for garbage collection of City of Modesto utility customers, and

WHEREAS, adoption of new Senior/Disabled Discount rates for City of Modesto water services required changes to the current contracts, and

WHEREAS, Corporate Officers of Waste Management Holdings, Inc., Gilton Solid Waste Management and Bertolotti Modesto Disposal, Inc. have all agreed to the new billing contracts,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the garbage-billing contracts between the City of Modesto and Waste Management Holdings, Inc., Gilton Solid Waste Management and Bertolotti Modesto Disposal, Inc. are hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said Contracts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-186**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR PROPOSALS FOR THE FURNISHING  
OF POLYGRAPH EXAMINATION SERVICES, FOR A TWO (2) YEAR  
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN  
ESTIMATED ANNUAL COST OF \$20,475**

WHEREAS, the Police Department began using pre-employment polygraph examinations on all sworn employment applicants in May 2002, and

WHEREAS, approximately 125 polygraph examinations are administered each year, and

WHEREAS, polygraphs have proven to be a useful tool in identifying the most qualified candidates for police officer and reserve police office positions for the City of Modesto, and

WHEREAS, the Police Department entered into a three (3) year contract on May 15, 2002, for polygraph examination services, and

WHEREAS, the current contract is set to expire on May 14, 2005, and

WHEREAS, the use of pre-employment polygraph investigations provides very useful information that can be used during the background investigation of applicants, and

WHEREAS, without such a tool, some portions of the applicants' background may not be uncovered or fully investigated, and

WHEREAS, this could lead to the completion of inadequate background investigations and the hiring of officers with questionable personal backgrounds, and

WHEREAS, polygraphs have proven to be useful in the applicant screening process over the last three (3) years, and



WHEREAS, the Police Department does not have any qualified in-house polygraph examiners, nor does it have the staffing to dedicate an existing employee to perform polygraph examinations, and

WHEREAS, the start up costs and salary of an in-house examiner would exceed the cost associated with outsourcing this service, and

WHEREAS, contracts may be awarded to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and

WHEREAS, a secondary or third company could 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, 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 polygraph examination 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 the furnishing of polygraph examination services, for a two (2) year

agreement, with three (3) one-year extension options, 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 by an evaluation committee 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 April 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-187**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF CURB, GUTTER AND SIDEWALK REPAIR OR REPLACEMENT TO K & D ENTERPRISES, INC., CERES, CA, AS THE “PRIMARY” CONTRACTOR, WITH BARHAM CONSTRUCTION, INC., CERES, CA, AS THE “SECONDARY” CONTRACTOR, FOR A THREE (3) YEAR AGREEMENT, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF \$246,372**

WHEREAS, the City Council adopted a formal policy in 1953, obligating the City to repair curbs, gutters and sidewalks when damage is caused from a City tree, and

WHEREAS, the Public Works Department, Urban Forestry Division is responsible for maintaining the City’s curbs, gutters and sidewalks, and

WHEREAS, repairs originate from citizen notices and City staff inspections, and

WHEREAS, contracted jobs vary in cost from between \$1,050 to \$53,265 depending on the “scope of work” of the job, and

WHEREAS, the current level of the staffing and amount of workload is resulting in longer backlogs for repairs and replacements, and

WHEREAS, on August 10, 2004, Council approved Resolution No. 2004-410, authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of curb, gutter and sidewalk repair or replacement, for a three (3) year agreement, with two (2) one-year extension options, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0405-04, for the furnishing of curb, gutter and sidewalk repair or replacement to thirty-three (33) companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, of the thirty-three (33) companies solicited, two (2) companies chose to respond, and

WHEREAS, bid language allows the award of bid and contract to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and

WHEREAS, the secondary or third company could 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 timeframe required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and

WHEREAS, based on being the lowest responsive and responsible bid, City staff recommends the award of Bid No. 0405-04 and contract for the furnishing of curb, gutter and sidewalk repair or replacement to K & D Enterprises, Inc., Ceres, CA, as the “primary” contractor, for a three (3) year agreement, with two (2) one-year extension options, for a estimated annual cost of \$246,372, and

WHEREAS, City staff also recommends the award of bid and contract for the furnishing of curb, gutter and sidewalk repair or replacement to Barham Construction Inc., Ceres, CA, as the “secondary” contractor, for a three (3) year agreement, with two (2) one-year extension options.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-04 and contract for the furnishing of curb, gutter and sidewalk repair or replacement to K & D Enterprises, Inc., Ceres, CA, as the “primary”

contractor, for a three (3) year agreement, with two (2) one-year extension options, for an estimated annual cost of \$246,372.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-04 and contract for the furnishing of curb, gutter and sidewalk repair or replacement to Barham Construction, Inc., Ceres, CA, as the “secondary” contractor, for a three (3) year agreement, with two (2) one-year extension options.

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 26<sup>th</sup> day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-188**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND PURCHASE  
ORDER FOR SIX (6), MODEL 170E CONTROLLERS AND MODEL 332  
CABINETS TO MCCAIN TRAFFIC SUPPLY OF SACRAMENTO, CA. IN THE  
APPROXIMATE AMOUNT OF \$33,485.99**

WHEREAS, the Public Works Department-Traffic Division has requested the purchase of six (6), Model 170E Controllers and Model 332 Cabinets for traffic signal control for an estimated cost of \$50,000, and

WHEREAS, Resolution No. 2005-59 authorized the Purchasing Supervisor to solicit formal Request for Bids (RFB) for six (6), Model 170E controllers, with Model 332 Cabinets, and

WHEREAS, the Model 170E controller assemblies consisting of Model 170E controller units, and wired Model 332 cabinets and all auxiliary equipment are required to control the signal indications for full eight (8) phase signal operation, and

WHEREAS, the Model 170E Controller conforms to Traffic Signal Control Equipment Specification used by the State of California, and

WHEREAS, these units will be used to replace damaged units, as well as units which have been in use for over twenty (20) years at various City-wide locations, and

WHEREAS, the City Council has appropriated funds in account number 0700-160-1612-0365 for six (6), Model 170E Controllers, with Model 332 Cabinets, and

WHEREAS, the Modesto Municipal Code, MMC Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000 for materials, equipment, or contractual services to be formally bid. 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)). The six (6), Model 170E Controllers and Model 332 cabinets received said approval with Resolution No. 2005-59. This award of bid and purchase order will conform to code.

WHEREAS, the Purchasing Division solicited formal bids for six (6), Model 170-E Controllers and Model 332 Cabinets on Request for Bid (RFB) 0405-16, and

WHEREAS, out of ten (10) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, McCain Traffic Supply, Inc. of Sacramento, CA. is deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and purchase order to McCain Traffic Supply Inc. of Sacramento, CA. in the approximate amount of \$33,485.99.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to McCain Traffic Supply, Inc for six (6), Model 170E Controllers and Model 332 Cabinets in the approximate amount of \$33,485.99.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-189**

**ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO THE FOLLOWING VENDORS: AMERICAN CHEVROLET OF MODESTO, CA. FOR FIVE (5), NEW, CURRENT YEAR/MODEL PICKUPS IN THE APPROXIMATE AMOUNT OF \$112,475.51, AND TO HERITAGE FORD OF MODESTO, CA. FOR TWO (2), NEW, CURRENT YEAR/MODEL TRUCKS, WITH FLATBEDS IN THE APPROXIMATE AMOUNT OF \$49,211.04. THE TOTAL APPROXIMATE PURCHASE AMOUNT FOR ALL SEVEN (7), NEW, CURRENT YEAR/MODEL VEHICLES IS \$161,686.55**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of five (5), new, current year/model pickups and two (2), new, current year/model, trucks with flatbeds, and

WHEREAS, on July 15, 2004, the Finance Committee approved a recommendation to authorize the solicitation of bids for vehicles and heavy equipment throughout FY 2004/05 through various competitive processes, in a cumulative amount not to exceed the budgeted amount and returning to Council for authorization to award the contract, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award authorization, and

WHEREAS, the five (5), new, current year/model pickups consist of two (2) each, mid-size crew cab pickups, one (1) each, ½ ton regular cab pickup, one (1) each, ½ ton extended cab pickup, and one (1) each, one ton extended cab pickup, DRW, and

WHEREAS, the two (2), new, current year/model trucks with flatbeds consist of: one (1) each, one ton crew cab flatbed truck, and one (1) each, one ton extended cab, flatbed truck, and

WHEREAS, the two (2) each, mid-size crew cab pickups are being added to the Water Department Fleet, and will be used by work crews that are completing the GPS citywide inventory, and

WHEREAS, the one (1) each, ½ ton regular cab pickup is to replace a current pickup used by the Water Department, and

WHEREAS, the one (1) each, 1/2 ton extended cab pickup will replace a current pickup used by the Building Inspectors, and

WHEREAS, the one (1) each, one ton crew cab, flatbed truck is to replace a current truck in the Community Forestry Department, and

WHEREAS, the one (1) each, one ton extended cab, flatbed truck is to replace a current truck in the Community Forestry Department, and

WHEREAS, the one (1) each, one (1) ton extended cab pickup, DRW, is an additional truck for the Airport Operations Department, and

WHEREAS, the Purchasing Division solicited formal bids for five (5), new, current year/model pickups and two (2), new, current year/model, trucks with flatbeds on Request for Bid (RFB) 0405-22, and

WHEREAS, out of twenty thirty-five (35) vendors solicited, two (2) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-20 by the Purchasing Division and the Public Works Department-Fleet Services staff, and

WHEREAS, American Chevrolet of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for five (5), new, current year model pickups for a total approximate cost of \$112,475.51, and

WHEREAS, Heritage Ford of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for two (2), new, current year model trucks with flatbeds for a total approximate cost of \$49,211.04, and

WHEREAS, the combined approximate total cost of all seven (7), new, current year/model pickups and flatbed trucks is \$161,686.55,

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, pickups and flatbed trucks to the following vendors in the amount of \$161,686.55:

American Chevrolet of Modesto, CA. for five (5), new current year/model pickups in the approximate amount of \$112,475.51; and Heritage Ford of Modesto, CA. for two (2), new, current year/model, trucks with flatbed in the approximate amount of \$49,211.04.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for the seven (7) new, current year/model, pickups and trucks with flatbeds as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-190**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO  
HERITAGE FORD OF MODESTO, CA. FOR EIGHTEEN (18), NEW, CURRENT  
YEAR/MODEL, BLACK AND WHITE, PATROL SEDANS IN THE  
APPROXIMATE AMOUNT OF \$461,725.07**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of eighteen (18), new, current year/model, black and white patrol sedans, and

WHEREAS, on July 15, 2004, the Finance Committee approved a recommendation to authorize the solicitation of bids for vehicles and heavy equipment throughout FY 2004/05 through various competitive processes, in a cumulative budgeted amount not to exceed \$2,859,500.00, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award of bid and contract, and

WHEREAS, delivery of these vehicles will be coordinated to coincide with the life cycles of the current patrol fleet in order to meet the replacement needs over the next twelve (12) months, and

WHEREAS, the Purchasing Division solicited formal bids for eighteen (18), new, current year/model, black and white patrol sedans on Request for Bid (RFB) 0405-20, and

WHEREAS, out of twenty five (25) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-20 by the Purchasing Division and the Public Works Department-Fleet Services staff, and

WHEREAS, the total cost of the eighteen (19), new, current year/model, black and white patrol sedans is approximately \$461,725.07 including freight and sales tax, and

WHEREAS, Heritage Ford of Modesto, CA. was deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for eighteen (18), new, current year/model, black and white, patrol sedans to Heritage Ford of Modesto, CA. in the approximate amount of \$461,725.07.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Heritage Ford of Modesto, CA. for eighteen (18), new, current year/model, black and white patrol sedans in the approximate amount of \$461,725.07.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-191**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR TWELVE (12), NEW, CURRENT YEAR/MODEL UTILITY TRUCKS AND ONE (1) NEW, CURRENT YEAR/MODEL, FULL SIZE CARGO VAN TO THE FOLLOWING VENDORS: AMERICAN CHEVROLET OF MODESTO, CA. FOR SEVEN (7) EACH, UTILITY TRUCKS AND ONE (1) FULL SIZE CARGO VAN IN THE APPROXIMATE AMOUNT OF \$275,026.91; AMERICAN TRUCK AND TRAILER BODY OF TRACY, CA. FOR TWO (2) EACH, UTILITY TRUCKS IN THE APPROXIMATE AMOUNT OF \$124,997.11; COUNTRY FORD OF CERES, CA. FOR TWO (2) EACH, ¾ TON EXTENDED CAB FLATBED DUMP TRUCKS IN THE APPROXIMATE AMOUNT OF \$54,374.70; AND TO MELROSE FORD, OAKLAND, CA. FOR ONE (1) EACH, ONE TON EXTENDED CAB FLATBED DUMP TRUCK IN THE APPROXIMATE AMOUNT OF \$36,367.91. THE TOTAL APPROXIMATE PURCHASE AMOUNT FOR ALL TWELVE (12) UTILITY TRUCKS AND ONE (1) FULL SIZE CARGO VAN IS \$490,766.63**

WHEREAS, the Public Works Department-Fleet Services Division had requested the purchase of twelve (12), new, current year/model, utility trucks and one (1) new, current year/model full size cargo van, and

WHEREAS, on July 15, 2004 the Finance Committee authorized the Purchasing Supervisor to solicit bids for vehicles and heavy equipment throughout FY 2004-05 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$2,859,500.00, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award authorization, and

WHEREAS, the twelve (12), new, current year/model, utility trucks and one (1) new, current year/model, full size cargo van consist of one (1) each, ¾ ton extended cab & chassis with utility body, one (1) each, cab & chassis with utility body, one (1) each, truck with low profile dump body, one (1) each, one ton extended cab flatbed dump



truck, two (2) each,  $\frac{3}{4}$  ton extended cab & chassis with utility body, one (1) each, full size cargo van with windows, one (1) each, cab & chassis with flatbed, one (1) each,  $\frac{3}{4}$  ton extended cab & chassis with utility body, one (1) each,  $\frac{3}{4}$  ton extended cab 2WD, one (1) each,  $\frac{3}{4}$  ton chassis with utility body and compressor, one (1) each,  $\frac{1}{2}$  ton extended cab pickup, and one (1) each, crew cab & chassis E550 truck, with utility body, and

WHEREAS, one (1) each,  $\frac{3}{4}$  ton extended cab & chassis with utility body will replace a current fleet vehicle used by the Water Operations Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each, cab & chassis with utility body will replace a current fleet vehicle used by the Graffiti Abatement Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each, truck with low profile dump body will replace a current fleet vehicle used by the Community Forestry Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each, one ton extended cab flatbed dump truck will replace a current fleet vehicle used by the Community Forestry Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the two (2) each,  $\frac{3}{4}$  ton extended cab & chassis with utility body are additional vehicles used by the Water Operations Division, and

WHEREAS, the one (1) each, full size cargo van with windows will replace a current fleet vehicle used by the Police Department for Prisoner Transport. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each, cab & chassis with flatbed will replace a current fleet vehicle used by the Curbs Gutters and Sidewalks Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each,  $\frac{3}{4}$  ton extended cab & chassis with utility body will replace a current fleet vehicle used by the Traffic Operations Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each,  $\frac{3}{4}$  ton extended cab, 2 wheel drive truck will replace a current fleet vehicle used by the Construction Administration Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each,  $\frac{3}{4}$  ton chassis utility body and compressor will replace a current fleet vehicle used by the Curbs Gutters and Sidewalk Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each,  $\frac{1}{2}$  ton extended cab pickup will be added to the fleet and used by the Police Department as a Community Service Vehicle. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the one (1) each, crew cab & chassis F550 truck with utility body will replace a current fleet vehicle used by the Streets Division. The vehicle being replaced has reached the end of its useful life, and

WHEREAS, the Purchasing Division solicited formal bids for twelve (12), new, current year/model, utility trucks and one (1) each, new, current year/model, full size cargo van on Request for Bid (RFB) 0405-21, and

WHEREAS, out of fifty-six (56) vendors solicited, seven (7) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-21 by the Purchasing Division and the Public Works Department-Fleet Services staff, and

WHEREAS, American Chevrolet of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for seven (7), new, current year/model, utility trucks and one (1) each, full size cargo van in the approximate amount of \$275,026.91, and

WHEREAS, Country Ford Trucks of Ceres, CA. is deemed to be the lowest responsive and responsible bidder for two (2), new, current year/model,  $\frac{3}{4}$  ton extended cab & chassis with utility body in the approximate amount of \$54,374.70, and

WHEREAS, American Truck Trailer Body of Tracy, CA. is deemed to be the lowest responsive and responsible bidder for one (1) each, extended cab  $\frac{3}{4}$  ton chassis with utility body and compressor and one (1) each, crew cab & chassis F550 truck in the approximate amount of \$124,997.11, and

WHEREAS, Melrose Ford of Oakland, CA. is deemed to be the lowest responsive and responsible bidder for one (1) each, one ton extended cab flatbed dump truck in the approximate amount of \$36,367.91 and

WHEREAS, the approximate purchase amount for twelve (12), new, current year/model, utility trucks and one (1), new, current year/model full size cargo van is \$490,766.63,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for twelve (12), new, current year/model, utility trucks and one (1) new, current year/model, full size cargo van to the following:

American Chevrolet of Modesto, CA. for seven (7), new current year/model, utility trucks, and one (1), new, current year/model, full size cargo van in the approximate amount of \$275,026.91; American Truck and Trailer Body of Tracy, CA. for two (2), new, current year/model, utility trucks in the approximate amount of \$124,997.11; Country Ford of Ceres, CA. for two (2), ¾ ton extended cab flatbed dump trucks in the approximate amount of \$54,374.70; and to Melrose Ford of Oakland, CA. for one (1), one ton extended cab flatbed truck in the approximate amount of \$36,367.91. The approximate total purchase amount for the twelve (12) new, current year/model, utility trucks and one (1), new, current year/model, full size cargo van with windows is \$490,766.63.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for the twelve (12) new, current year/model, utility trucks and one (1), new current year/model, full size cargo van.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-192**

**ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO THE FOLLOWING VENDORS: AMERICAN CHEVROLET OF MODESTO, CA. FOR TWO (2) EACH, NEW, CURRENT YEAR/MODEL, PATCH TRUCKS IN THE APPROXIMATE AMOUNT OF \$276,962.75, ALTEC INDUSTRIES OF DIXON, CA. FOR TWO (2) EACH, TRUCKS WITH AERIAL BUCKET AND ONE (1) EACH, VAN WITH AERIAL BUCKET IN THE APPROXIMATE AMOUNT OF \$374,373.68; PACIFIC TEK, INC. OF SANTA ANA, CA. FOR TWO (2) EACH, ONE TON EXTENDED CAB & CHASSIS IN THE APPROXIMATE AMOUNT OF \$156,262.84; AND TO DOWNTOWN FORD OF SACRAMENTO, CA. FOR ONE (1) EACH, ¾ TON CARGO VAN IN THE APPROXIMATE AMOUNT OF \$17,480.38. THE TOTAL APPROXIMATE PURCHASE AMOUNT FOR ALL EIGHT (8), NEW, CURRENT YEAR/MODEL VEHICLES IS \$825,079.65**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of eight (8), new, current year/model, specialty trucks and vans, and

WHEREAS, on July 15, 2004 the Finance Committee authorized the Purchasing Supervisor to solicit bids for vehicles and heavy equipment throughout FY 2004-05 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$2,859,500.00, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit formal bids for vehicles and equipment with the Purchasing Supervisor coming back to Council for award authorization, and

WHEREAS, the eight (8), new, current year/model, specialty trucks and vans consist of two (2) each, patch truck, two (2) each, truck with aerial bucket, one (1) each, van with aerial bucket, two (2) each, one (1) ton extended cab & chassis; and one (1) each, one (1), ¾ ton cargo van, and

WHEREAS, two (2) each, patch truck- these two trucks are to replace current fleet vehicles assigned to the Streets Division, which have reached the end of their useful life, and

WHEREAS, two (2) each, truck with aerial bucket trucks are to replace current fleet vehicles assigned to the Community Forestry Division, which have reached the end of their useful life, and

WHEREAS, one (1) each, van with aerial bucket is to replace a current fleet vehicle assigned to the Electrical Division, which has reached the end of its useful life, and

WHEREAS, two (2) each, one (1) ton extended cab and chassis DRW, with value turner trucks are being added by the Water Department, which will help our crews perform preventive maintenance on our city water valve infrastructure, and

WHEREAS, one (1) each,  $\frac{3}{4}$  ton cargo van is to replace a current fleet vehicle assigned to the Building Services Division, which has reached the end of its useful life, and

WHEREAS, the Purchasing Division solicited formal bids for eight (8), new, current year/model, specialty trucks and vans on Request for Bid (RFB) 0405-22, and

WHEREAS, out of sixty-one (61) vendors solicited, ten (10) chose to respond to the RFB, and

WHEREAS, bids received were evaluated per specification 0405-22 by the Purchasing Division and the Public Works Department-Fleet Services staff, and

WHEREAS, American Chevrolet of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for two (2), new, current year/model, patch trucks in the total approximate cost of \$276,962.75, and

WHEREAS, Altec Industries of Dixon, CA. is deemed to be the lowest responsive and responsible bidder for two (2), new, current year/model, trucks with aerial bucket and one (1) each, new, current year/model van with aerial bucket in the total approximate cost of \$374,373.68, and

WHEREAS, Pacific Tek, of Santa Ana, CA. is deemed to be the lowest responsive and responsible bidder for two (2) each, one (1) ton extended cab & chassis in the total approximate amount of \$156,262.84, and

WHEREAS, Downtown Ford of Sacramento, CA. is deemed to be the lowest responsive and responsible bidder for one (1) each, ¾ ton cargo van in the total approximate cost of \$17,480.38, and

WHEREAS, the approximate purchase amount for all eight (8), new, current year/model, specialty trucks and vans is \$825,079.65,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and purchase order for eight (8), new, current year/model, specialty trucks and vans to the following:

American Chevrolet of Modesto, CA. for two (2) each, new current year/model, patch trucks in the approximate amount of \$276,962.75; Altec Industries, Dixon, Ca. for two (2) each, trucks with aerial buckets and one (1) each, van with aerial bucket in the approximate amount of \$374,373.68; Pacific Tek of Santa Ana, CA. for one (1) each, one (1) ton extended cab & chassis in the total approximate amount of \$156,262.84; and to



Downtown Ford of Sacramento, CA. for one (1) each, ¾ ton cargo van in the approximate amount of \$17,480.38. The approximate total purchase amount for the eight (8) new, current year/model, specialty trucks and vans is \$825,079.65.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for the eight (8) new, current year/model, specialty trucks and vans, as set forth herein,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-193**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND THAYER CONSULTING FOR PROFESSIONAL SERVICES RELATED TO THE SELECTION OF AN UPGRADE/REPLACEMENT SYSTEM FOR MODESTO POLICE AND FIRE DEPARTMENTS RECORD MANAGEMENT, MOBILE DATA SYSTEMS, AND AUTOMATED FIELD REPORTING SYSTEMS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, in May 2004, an Agreement was signed with Gartner Consulting to provide support to the Police, Fire and Information Technology Departments in the selection of upgrade & replacement technology systems for Records Management, Mobile Computing, and Automated Field Reporting, and

WHEREAS, for the entire term of this agreement, Thayer Consulting has served as the project subcontractor to Gartner Consulting, and Brian Hudson from Thayer Consulting has been the primary consultant assigned to the project, and

WHEREAS, at this time the Project Steering Committee (which includes our Police Chief, Fire Chief, Chief Information Officer, and Finance Deputy) is asking for approval of a new contract directly with Thayer Consulting, and

WHEREAS, the new contract, in the amount of \$7,900, will allow us to retain the services of Brian Hudson of Thayer Consulting during contract negotiations, and

WHEREAS, this work is in addition to the original contract and will bring the overall cost of the project to \$64,400, and

WHEREAS, all contracts over the amount of \$50,000, are required to be approved by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an Agreement for Consultant Services with Thayer Consulting in the amount of \$7,900, in the form attached hereto 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 26<sup>th</sup> day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-194**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND THE MODESTO CITY EMPLOYEES' ASSOCIATION  
(MCEA) FOR A FLEXIBLE STAFFING PILOT PROGRAM IN THE CUSTOMER  
SERVICES DIVISION OF THE FINANCE DEPARTMENT**

WHEREAS, the parties agree that Article 50 – Pending Issues, of the current Memorandum of Understanding between the City of Modesto and the Modesto City Employees' Association (MCEA) provides for a re-opener on a Flexible Staffing Pilot Program in the Customer Services Division of the Finance Department, and

WHEREAS, this program is to study and develop flexible staffing options that are based on measurable knowledge, skills, abilities, and time-in-grade criteria, and

WHEREAS, the Pilot Program was designed and developed by the affected employees, work unit managers, and representatives of MCEA and the City of Modesto, and

WHEREAS, the parties have met and conferred in good faith, and

WHEREAS, the Pilot Program provides flexible staffing for the newly proposed classifications of Customer Services Account Clerk I, Customer Services Account Clerk II and Customer Services Account Clerk III at Salary Ranges 109, 111 and 115 respectively, and a new classification of Customer Services Accounting Technician (attached) at Salary Range 118, and

WHEREAS, the number of allocations at the Customer Services Account Clerk III level will be limited to 25% of the total number of Customer Services Account Clerks allocated to the Division, and

WHEREAS, specific criteria will be used to determine an employee's readiness for flexing to the next level, and

WHEREAS, the parties have agreed to a structured process for and Advancement Procedure to be used to determine if an employee is recommended for flexing to the next level,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement between the City of Modesto and the Modesto City Employees' Association (MCEA) adopting a Customer Services Account Clerk Flexible Staffing Pilot (Program) in the Customer Services Division of the Finance Department, said Program shall continue from the date of adoption (April 26, 2005) through April 30th, 2007, or until such date as the City Council adopts a Resolution removing the sunset provision on this Pilot Program and the applicable amendments to the Class Range Tables and Classification Plan, confirming the establishment of the above program on an on-going basis.

BE IT FURTHER RESOLVED that should the City determine by April 30th, 2007 that the Pilot Program has not been successful, the City shall notify MCEA. The parties will, within a reasonable time thereafter, meet and confer in a good faith effort to resolve identified problems. Should the parties be unable to resolve outstanding issues, the City reserves the right to abolish the Pilot Program effective May 1<sup>st</sup>, 2007.

BE IT FURTHER RESOLVED that, notwithstanding the above, should the City abolish the Pilot Program, all employees designated as Customer Service Account Clerk I, II or III or Customer Service Accounting Technician shall be reclassified as Account

Clerk or Accounting Technician as defined by the current classification specifications at Salary Ranges 111 and 115 respectively.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-195**

**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 1. CLASSIFICATIONS CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classifications:

1. Customer Services Account Clerk I
2. Customer Services Account Clerk II
3. Customer Services Account Clerk III
4. Customer Services Accounting Technician.

Said job specifications for the classifications listed above are being created to reflect a recent tentative agreement between the City of Modesto and the Modesto City Employees' Association regarding a Flexible Staffing Pilot Program in the Customer Services Division of the Finance Department. The job specifications for the

classifications of Customer Services Account Clerk I, Customer Services Account Clerk II, Customer Services Account Clerk III, as shown on the attached Exhibit "A", and Customer Services Accounting Technician, as shown on 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 April 26, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



## CUSTOMER SERVICES ACCOUNT CLERK I/II/III

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 customer services and related accounting tasks involving financial transactions and record keeping including accounts receivable, utility billing, cashiering, business licensing and revenue recovery; to perform a wide variety of general clerical activities and work related to both internal and external customers.

### DISTINGUISHING CHARACTERISTICS

Positions in this class are flexibly staffed and are normally filled by advancement through the series, or when filled from the outside require prior work experience directly related to the area of assignment.

Customer Services Account Clerk I – is defined as the entry-level class of the Customer Services Account Clerk series. Initially, incumbents learn to perform a variety of tasks under the direction of a more experienced employee requiring knowledge of departmental and City procedures. This level is considered a trainee level; Incumbents are expected to develop additional expertise and meet the requirements of the Customer Services Account Clerk II after a minimum of 12 months and receive a satisfactory performance evaluation.

Customer Services Account Clerk II - is the fully qualified, journey level class of this series. Incumbents possess the ability to identify routine problems or needs, create solutions in a skilled manner and to independently conduct routine assignments without immediate supervision. Specific duties may vary depending on the assignment. Incumbents may only advance to the III level after a minimum of 12 months as a Customer Services Account Clerk II, receive an overall performance evaluation at the “exceeds standard” level and have passed the appropriate proficiency standard rating, and with the approval of the Deputy Director of Finance.

DISTINGUISHING CHARACTERISTICS, (Continued)

Customer Services Account Clerk III - is defined as the highly qualified and diversified, advanced level class of the series. Incumbents possess specialized knowledge and are expected to perform the full scope of duties in more than one functional area, identify complex and technical problems or needs, create solutions in a skilled demonstrated manner and to independently complete complex assignments with limited supervision. Specialized knowledge may involve functioning as an advisor to staff on specific procedures or practices.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher-level accounting or supervisory staff.

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

Essential Functions:

Perform customer service at counter, write receipts, collect monies, post and assign account numbers.

Post data to various ledgers, registers, journals and logs according to established account classifications and procedures.

Process incoming mail; write deposits receipts and record on files; verify account numbers and amount paid; process returned mail and improperly written checks.

Check and tabulate statistical and financial data.

Assist customers, departments, and employees, by providing information, explaining procedures, and answering questions over the telephone and in person.

Perform a variety of general clerical duties including computer data entry, typing, and maintaining files and records.

Process and match payment vouchers and invoices; verify accuracy of information, research discrepancies, assign codes and verify with registers.

Operate a personal computer for a variety of applications, depending on assignment.

Essential Functions: (Continued)

**Depending upon the assignment, additional specific functions include the following:**

**When assigned to Accounts Receivable:**

Maintain accounts receivable PC system and files, including adding new invoices, recording paid invoices, filing paid invoices, working with customers through correspondence and over the phone, monitoring past due invoices, and sending follow-up notices.

Process appropriate delinquent invoices to the Credit Bureau.

**When assigned to Cashiering:**

Perform customer service at counter by collecting monies, issuing receipts and answering basic questions regarding utility accounts, parking citations, business licensing, parking, bus passes and other city procedures.

Operate machinery to open and sort utility payments; verify amounts; balance and process payments.

Prepare daily banking documents and materials; prepare and type various bills and notices.

**When assigned to Business Licensing:**

Operate a PC based business license system including: setting up new accounts, posting payments and adjustment and closing out accounts.

**When assigned to Utility Billing:**

Provide customer service to explain utility collections, regulations, policies and procedures by telephone and in person.

Operate a PC based utility billing system including new accounts, adjustments and payment plans; make billing adjustments, entering reads and canceling bills.

Balance and prepare daily banking documents.

Essential Functions: (Continued)

**When assigned to Revenue Recovery:**

Provide customer service to explain collections, regulations, policies and procedures by phone and in person.

Operate a PC based Collection and Citation software including adjustments and payments plans.

**Customer Services Account Clerk III** (In addition to duties listed above.)

Diagnose and resolve problems in assigned area; provide training to less experienced staff as needed.

Develop manuals; assist in the development of policies and procedures.

Process invoices; verify accuracy of information, research discrepancies, assign and verify codes.

Assume technical leadership on projects, conversions and implementation.

Act as back up to technical staff and/or assist with technical duties including support in applicable cross trained areas.

Marginal Functions:

Perform related duties as assigned.

**QUALIFICATIONS**

**Customer Services Account Clerk I/II**

Knowledge of:

Customer service practices resulting in positive outcomes.

Financial record keeping practices and procedures.

Basic accounting principles.

Accounts receivable collection techniques and procedures.

Office procedures and methods; a variety of personal computer applications including spreadsheets.

Ability to:

Maintain financial records and accounts.

Post data to various ledgers, registers, journals and logs according to established procedures.

Operate a calculator, 10-key, and personal computer and related office equipment; type at a speed necessary for successful job performance.

Perform procedures in an organized and accurate manner.

Accurately count, record and balance assigned transactions.

Work with sensitive and confidential customer information; provide excellent customer service.

Communicate clearly and concisely, both orally and in writing; compose basic routine correspondence.

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

**Customer Services Account Clerk III** (In addition to the requirements of the I/II)

Knowledge of:

Policies, procedures, processes and forms related to assigned area.

Various computer applications depending on assignment and related to cross-trained areas.

Ability to:

Diagnose and resolve complex problems and technical issues.

Work independently with minimal supervision.

Provide training and lead direction to other City employees.

Organize, research and maintain office files.

Make arithmetical calculations with speed and accuracy.

Use initiative and sound independent judgment within established guidelines.

**EXPERIENCE AND TRAINING GUIDELINES:**

Any combination of education and experience equivalent to achievement of the knowledge and abilities listed.

**Customer Services Account Clerk I**

**Experience:**

One year of clerical experience in an office setting involving financial record keeping, including accounting, payroll preparation, cashiering, customer service, statistical data or related function.

**Training:**

Equivalent to graduation from high school.

**Customer Services Account Clerk II**

**Experience:**

Two years of clerical experience in an office setting, involving financial record keeping, including accounting, payroll preparation, cashiering, customer service, statistical data or related function, **OR** successful completion of the probationary period as a Customer Services Account Clerk I, receipt of a "meets standards" performance evaluation, and having met the requirements of Customer Services Account Clerk II.

**Training:**

Equivalent to graduation from high school.

**Customer Services Account Clerk III**

**Experience:**

A minimum of one year experience as a Customer Services Account Clerk II, receipt of an "Exceeds Standard" performance evaluation and passing of the proficiency standard rating established by the department.

**Training:**

Equivalent to graduation from high school **AND** participation in three job-related training/classes or conferences approved by the supervisor and based on department criteria.

WORKING CONDITIONS:

Environmental Conditions:

Office environment; exposure to computer screens.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting or standing for prolonged periods of time; using various office equipment including a computer and 10-key.

## CUSTOMER SERVICES ACCOUNTING 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 a variety of technical and accounting duties involving the maintenance of the accounts receivable, utility billing, cashiering, business licensing, and revenue recovery and general customer services; and to provide technical staff assistance to the Customer Services Supervisors, Deputy Finance Director and other City staff.

### DISTINGUISHING CHARACTERISTICS

The Accounting Technician is considered the lead worker in the clerical accounting series. Incumbents are expected to provide technical expertise, support and instruction regarding applicable procedures and methods; monitor the workflow of assigned staff and work with employees to provide on-going training and coaching as needed.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher-level supervisory staff.

May exercise technical supervision over less experienced 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:

Interpret and explain rules and regulations; answer questions and resolve problems or citizen complaints when escalated above account clerk level.

Reconcile various ledgers, registers and journals according to established accounting principles.

Direct daily workflow of clerical staff to process, record, verify, and balance all payments received; reconcile against bank deposit receipts.

Provide input to supervisors on assigned employee's performance.

Approve and initiate collection of account balances; locate and collect past due accounts; establish payment plans.



Essential Functions: (Continued):

Establish and maintain accounting records; assign a variety of codes as applicable.

Prepare a variety of financial statements and monthly reports for City accounting and utility accounting; assist customers/staff in the most complex utility payment, business license, and accounting related questions.

Research background information; compile and prepare a variety of statistical and financial reports.

Research and answer various departmental questions regarding status of accounts, the proper coding of transactions and other matters.

Audit and maintain files and records; prepare periodic reports.

Operate a computer terminal in performing assigned duties.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Customer service practices resulting in positive outcomes.

A variety of computer applications including spreadsheets.

Generally accepted accounting principles.

Basic principles and practices of governmental accounting.

Advanced bookkeeping principles.

Current office procedures, methods and computer equipment.

Record keeping practices and procedures.

Basic mathematic principles.

Basic bookkeeping and financial record keeping principles and practices

Ability to:

Diagnose and resolve complex technical issues.

Work with sensitive and confidential customer information; provide excellent customer service.

Maintain and balance a variety of financial records, ledgers and accounts.

Provide lead direction and training to assigned work group.

Use initiative and sound independent judgment within established guidelines.

Work independently with minimal supervision.

Operate a calculator, 10-key, computer and related office equipment.

Type at a speed necessary for successful job performance.

Maintain a variety of financial records and files.

Type at a speed necessary for successful job performance.

Perform procedures in an organized and accurate manner.

Accurately count, record and balance assigned transactions.

Understand and carry out oral and written instructions.

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:

One-year experience as a Customer Services Account Clerk III or the equivalent. Experience must include resolving complex customer service issues, technical problem solving, providing training and lead direction to other employees, researching information and providing technical support both procedurally and on applicable software.

Training:

Equivalent to graduation from high school supplemented by college level accounting courses and/or job related training courses.

WORKING CONDITIONS:

Environmental Conditions

Office environment involving public contact; exposure to computer screens

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting or standing for prolonged periods of time; using various office equipment including a computer and 10-key.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-196**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 95-26 TO  
REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES  
TO CREATE THE CLASSIFICATIONS OF CUSTOMER SERVICES ACCOUNT  
CLERK I AT SALARY RANGE 109, CUSTOMER SERVICES ACCOUNT  
CLERK II AT SALARY RANGE 111, CUSTOMER SERVICES ACCOUNT  
CLERK III AT SALARY RANGE 115 AND CUSTOMER SERVICES  
ACCOUNTING TECHNICIAN AT SALARY RANGE 118**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution  
No. 95-26,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 95-26 Exhibit "A" entitled  
"City of Modesto Class Range Table General Non-Sworn Classes Effective January 10,  
1995, is hereby amended as shown on the amended Exhibit "A" entitled "City of  
Modesto Class Range Table General Non-Sworn Classes Effective April 26, 2005",  
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 the classifications Customer  
Services Account Clerk I (Range 109), Customer Services Account Clerk II (Range 111),  
Customer Services Account Clerk III (Range 115) and Customer Services Accounting  
Technician (Range 118).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and  
after April 26, 2005.

The foregoing resolution was introduced in a regular meeting of the Council of  
the City of Modesto held on the 26th Day of April, 2005, by Councilmember Jackman,

who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL NON-SWORN CLASSES  
Effective April 26, 2005

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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	<b>Customer Services Account Clerk I</b>
110	Animal Control Officer I Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III <b>Customer Services Account Clerk II</b> Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

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RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Animal Control Officer II Code Enforcement Officer I Community Service Officer I <b>Customer Services Account Clerk III</b> 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	<b>Customer Services Accounting Technician</b> Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician 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	Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-197**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
ISSUE A REQUEST FOR PROPOSALS FOR THE ESTABLISHMENT OF  
A BROKER OF RECORD FOR THE CITY'S EMPLOYEE GROUP  
INSURANCE PROGRAMS**

WHEREAS, the City of Modesto offers employee group insurance programs for its employees, and

WHEREAS, the City of Modesto utilizes the services of a broker to advise the City in plan design to contain costs and maximize benefit effectiveness, and

WHEREAS, the broker has been retained on an month-to-month basis and a long- term formal agreement is desirable, and

WHEREAS, the broker will provide the annual marketing of the group health and life programs, and

WHEREAS, the broker will serve in an advisory capacity to the Employee Benefits Committee, and

WHEREAS, the broker will assist in writing, reviewing and analyzing Requests for Proposals during renewals.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to issue a Request for Proposal for the establishment of a Broker of Record for the City's employee group insurance programs.

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-198**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND SUE FISCOE, DBA FISCOE  
MANAGEMENT (FM GOLF) AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AMENDMENT TO THE AGREEMENT**

WHEREAS, the City owns, operates and manages the Municipal Golf Course (“Municipal Course”), Dryden Park Municipal Golf Course (“Dryden Course”), Dryden Park Municipal Golf Course Driving Range (“Dryden Range”), Creekside Municipal Golf Course (“Creekside Course”) and Creekside Municipal Golf Course Driving Range (“Creekside Range”), and

WHEREAS, on March 21, 2000, the City of Modesto and FM Golf entered into an agreement under authority of Resolution No. 2000-131 retaining FM Golf as golf course professional to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, and Creekside Range, and,

WHEREAS, also under authority of Resolution No. 2000-131, FM Golf was retained to provide food and beverage concession services at Municipal Course and Dryden Course Clubhouse, and

WHEREAS, on November 13, 2003, the City extended the agreement with FM Golf under authority of Resolution 2003-606 for a five-year period commencing on July 1, 2003, and

WHEREAS, on May 25, 2004, the City amended the agreement with FM Golf under authority of Resolution 2004-274, for FM Golf to provide food and beverage concession services at Creekside Municipal Golf Course, and

WHEREAS, at its March 21, 2005, meeting, the Finance Committee recommended amending the agreement with FM Golf to include the following changes:

- (1) The duties of paid marshals on the golf courses will be assumed by existing pro-shop staff.
- (2) Golf Course restaurant hours of operation may be adjusted based on inclement weather or slow conditions.
- (3) Armored car service will be reduced from five to three pickups a week.
- (4) Golf advertising will be obtained through bartering of non-primetime golf rounds up to \$30,000.
- (5) Youth golf programs will be provided by a mutual agreement between FM Golf and The First Tee of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the agreement with FM Golf to incorporate the above changes for management of the City's Municipal golf courses.

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

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-199**

**A RESOLUTION APPROVING A PROPERTY MANAGEMENT  
AGREEMENT WITH WOLVERINE PROPERTY  
MANAGEMENT, A DIVISION OF PRUDENTIAL CALIFORNIA  
REALTY, AND AUTHORIZING THE CITY MANAGER TO SIGN  
THE AGREEMENT**

WHEREAS, the City of Modesto's Parks Recreation and Neighborhoods Department has rental properties it administers, and

WHEREAS, the current properties are: 4205 Gomes Rd, Modesto; 801 N. McClure Rd., Modesto; 660 El Vista Dr., Modesto; 1204 River Rd., Modesto; 1318 W. Hatch Rd., Modesto, and

WHEREAS, City of Modesto staff has identified a special need for professional property management, and

WHEREAS, City of Modesto staff believes that City staff does not have the depth of expertise nor the time that is needed to provide the best possible professional property management, and

WHEREAS, City of Modesto staff has issued a Request for Proposal to 22 qualified companies to successfully serve the City in Property Management of the Parks, Recreation and Neighborhoods rental properties, and

WHEREAS, one firm (Wolverine Property Management) responded to the Request for Proposal and has been deemed by staff qualified to perform the following management approach: (1) Ability to provide management services that focus on long-term results, which add value to the City's property assets. (2) Ability to resolve disputes in an expeditious manner while maintaining professionalism and ensuring the best benefit for the City. (3) Ability to accurately apply the principles, practices and legal requirements of real estate, property management and any and all pertinent laws and

practices. (4) Ability to accurately apply the principles and practices of negotiations, conflict resolution, principles and practices of management, administration and resource allocation planning, and

WHEREAS, the company that has qualified through the RFP process is Wolverine Property Management, a division Prudential California Realty, and

WHEREAS, on September 27, 2004, the Finance Committee unanimously recommended this proposal go forward to the City Council,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby approves an agreement with Wolverine Property Management to provide the City's Parks, Recreation and Neighborhoods Department with property management.

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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-200**

**A RESOLUTION APPROVING THE APPLICATION FOR  
\$43,000 IN FEDERAL FUNDING FROM THE LAND AND  
WATER CONSERVATION FUND FOR THE DEVELOPMENT  
OF PICNIC FACILITIES AND OTHER SEATING ALONG  
PHASE III OF THE VIRGINIA CORRIDOR RAILS-TO-  
TRAILS PROJECT AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE GRANT APPLICATION**

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 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 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 picnic facilities and other seating along the Virginia Corridor Rails-to-Trails Project 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 \$43,000 for Land and Water Conservation Fund assistance; and
2. Certifies that said agency has Matching funds from the following source(s): Bicycle Transportation Act, 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.

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 April 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

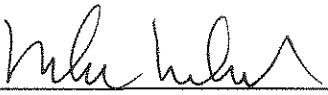
AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-201**

**A RESOLUTION APPROVING A MID-YEAR ADJUSTMENT TO THE FY 2004-2005 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY (“WASTE-TO-ENERGY”) FACILITY AND APPROVING THE FY2005-2006 BUDGET**

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

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

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee (“Executive Committee”), which prepares an annual budget for each fiscal year, and submits said annual budget to the City Council and Board of Supervisors for approval by August 1<sup>st</sup> of each year, and

WHEREAS, said Executive Committee may also recommend adjustments to an approved annual budget as necessary to provide sufficient funding for project activities, and

WHEREAS, at its March 10, 2005, meeting, the Executive Committee considered a proposed mid-year adjustment to the 2004/2005 budget as shown in Exhibit “A”, attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed mid-year adjustment to the Modesto City Council and the Stanislaus County Board of Supervisors for approval, and

WHEREAS, at its March 10, 2005, meeting, the Executive Committee also considered the proposed 2005/2006 Budget as shown in Exhibit "B", attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed 2005-2006 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 mid-year adjustment to the FY 2004-2005 Waste-to-Energy Project Budget, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, as recommended by the Executive Committee.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2005-2006 Waste-to-Energy Project Budget, a copy of which is attached hereto as Exhibit "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 26<sup>th</sup> day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Mike Milich  
MICHAEL D. MILICH, City Attorney

## "DRAFT" '04-'05 mid-year budget revision

EXPENDITURES	
60400 communications	\$ -
Provision for personal comm. Equipment	
61600 maintenance-equip	0
Provision for equip. maintenance contracts	
62200 memberships	15,500
Membership: Independent Energy Producers Assn.	
62410 rebates & refunds	303,247
Arbitrage Rebate Liability	
62600 office supplies	200
WTE letterhead, envelopes, etc.	
62780 books/periodicals	200
Provision for WTE related publications	
63000 profess & spec services	166,000
Rebate analysis, legislative lobbyist, Fin. Agency audit, advisors, and energy consult.	
63280 contracts	0
63400 engin services	50,000
Poss. Nox, or other emissions related engineering	
63410 admin serv	192,360
City of Modesto administrative charges	
63640 legal services	150,000
PG&E litigation, bankruptcy and general counsel	
65000 public/legl not	200
Provision for required legal notices	
65100 rent/equip	0
Provision for office equipment rental	
65300 rent/struct	0
Provision for administrative space rental	
65780 educ & train	0
Provision for staff training	
66710 service charges	10,100,000
Estimated aggregate service fees	
67040 travel expenses	7,500
Provision for travel related expenses	
<u>60 serv &amp; supp</u>	<u>\$10,985,207</u>
74080 central serv printing	0
Internal copy services	
74250 county counsel	20,000
Internal legal services	
74301 serv dept bill-auditor	130
Internal billing services: disposal fees	
74302 serv dept bill-purch	210
Internal seervices by Purchasing Dept.	
74370 stores	0
Internal supplies	
74520 admin serv	135,000
Stanislaus County administrative charges: DER	
74881 A-87 charges	230
Credit against Co. administrative charges	
<u>70 other charges</u>	<u>\$ 155,570</u>
82130 office equipment	0
84420 pers comp/equip	0
<u>80 fixed assets</u>	<u>\$ -</u>
85850 transfers out (85850a & 85850b)	810,000
HHW & AB939	
<u>85 other finan uses</u>	<u>\$ 810,000</u>
<u>Total Project</u>	<u>\$11,950,777</u>

REVENUES	
---17000 interest	1,500,000
Interest on pooled cash	
<u>17 rev from use money</u>	<u>\$ 1,500,000</u>
34400 sanitation serv	6,600,000
Estimated disposal fee revenues	
<u>30 chrgs for services</u>	<u>\$ 6,600,000</u>
40860 misc reimburse	300,000
Supplemental waste revenue & service fee credits	
41450 prior per rev	0
<u>40 misc revenue</u>	<u>\$ 300,000</u>
<u>Sub-Total Project</u>	<u>\$ 8,400,000</u>
trans (to) from fund balance	3,550,777
<u>Total Project</u>	<u>11,950,777</u>

Assumptions	2004	2005	2006	2007	2008	2009	2010
Solid Waste Delivered (tons)	270,000	270,000	270,000	270,000	270,000	270,000	270,000
Ferrous Metals (tons)	5,300	5,300	5,300	5,300	5,300	5,300	5,300
Solid Waste Processed (tons)	270,000	270,000	270,000	270,000	270,000	270,000	270,000
kWh per ton	525	525	525	525	525	525	525
Net Electricity Generated (mWh)	141,750	141,750	141,750	141,750	141,750	141,750	141,750
Price per kWh	\$0.05370	\$0.05370	\$0.05370	\$0.05370	\$0.05370	\$0.05370	\$0.05370
Revenue from Electricity Sales	\$7,611,975	\$7,611,975	\$7,611,975	\$7,611,975	\$7,611,975	\$7,611,975	\$7,611,975
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	\$10,885,319	\$10,885,319	\$10,885,319	\$10,885,319	\$10,885,319	\$10,885,319
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 Inflatior	3.500%	3.500%	3.500%	3.500%	3.500%	3.500%	3.500%
Insurance/Air Permit/Carbon Expense Inflatior	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%
Bond/DSRF Interest Rate	0.930%	3.300%	3.300%	3.300%	3.300%	3.300%	3.300%
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%	2.500%	3.000%	3.000%	3.000%	3.000%
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%

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-202**

**A RESOLUTION APPROVING ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS OF \$435,953 FOR PUBLIC SERVICES AND \$52,801 FOR SERVICES FOR THE HOMELESS, AND EMERGENCY SHELTER GRANT (ESG) FUNDS OF \$23,011 FOR FISCAL YEAR 2005-2006, 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 the 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 2005-2006, 15% of the City's available CDBG entitlement plus prior year program income is \$435,953, and 15% of the prior year's CDBG Revolving Loan Fund program income is \$75,000, and

WHEREAS, the available ESG entitlement is \$104,391, and

WHEREAS, a total of \$110,000 is set aside for a city-operated crime prevention program, and \$75,000 has been set aside for homeless services only, and

WHEREAS, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of \$435,953 in available funds to qualified non-profit agencies for public services as set forth in Exhibit A-1, attached hereto and incorporated herein by reference, and

WHEREAS, CH&CDC also recommended that \$52,801 be allocated for services for the homeless as set forth in Exhibit B, attached hereto and incorporated herein by reference, and

WHEREAS, in Fiscal Year 2005-2006, the City's ESG grant is \$104,391, and

WHEREAS, the CH&CDC recommended allocation of \$23,011 to local non-profit agencies for the purposes of providing assistance that is consistent with the functions of ESG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, as set forth in Exhibit C-1, attached hereto and incorporated herein by reference, and

WHEREAS, the CH&CDC recommended conducting a second round of review for proposals originally deemed ineligible due to incomplete documentation, utilizing \$22,199 of CDBG funds designated for homeless services, and \$81,380 in ESG funds, and

WHEREAS, at a public meeting on March 25, 2005, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits A, B and C attached hereto and incorporated herein by reference,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of \$435,953 in Community Development Block Grant (CDBG) funds for public services as set forth in Exhibit A.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of \$52,801 in CDBG Revolving Loan funds for services for the homeless as set forth in Exhibit B.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of \$23,011 for emergency shelter services for Fiscal Year 2005-2006 as set forth in Exhibit C.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of a total of \$110,000 for a city-operated crime prevention program.

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 and all documents with respect to implementation of the allocation of Fiscal Year 2005-2006 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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CDBG Applications 2005-2006**

**Total Available Funding:** \$435,953  
**City-operated Crime Prevention Program:** \$110,000  
**Amount Available for Non-Profit Agencies:** \$325,953

	<b>Organization Name</b>	<b>Program Name</b>	<b>Funding Requested</b>	<b>Recommendation</b>
1	Center for Human Services	Homeless & Runaway Shelter-Staff	\$27,590	\$27,590
2	Center for Human Services	Pathways Transitional Living - Substance Abuse Counselor	\$22,802	\$22,802
3	Children's Crisis Center	Cricket's House Respite Child Care	\$18,720	\$18,720
4	Children's Crisis Center	Sawyer Respite Child Care	\$18,720	\$18,720
5	Healthy Aging Association	Young at Heart	\$27,902	\$12,686
6	Interfaith Ministries	Santa Fe Emergency Shelter for Families with Minor Children	\$40,766	\$40,766
7	Parent Resource Center	ABC's of Childcare	\$21,747	\$21,747
8	Project Sentinel	Fair Housing	\$22,000	\$22,000
9	Project Sentinel	Tenant Landlord Services	\$35,000	\$24,000
10	Second Harvest Food Bank	Food Assistance Program	\$40,000	\$40,000
11	Stanislaus Community Assistance	Nutritional Supplement & Education Program	\$41,485	\$41,485
12	Stanislaus Literacy Center	Adult Literacy	\$34,325	\$15,497
13	Victory Life Center	Commodity Supplement Food Program	\$19,940	\$19,940
14	Victory Life Center	Commodity Supplement Food Program - Paperless Application	\$20,000	\$0
15	Victory Life Center	Emergency Food Pantry	\$15,000	\$0
<b>Total:</b>			<b>\$405,997</b>	<b>\$325,953</b>
<b>Remaining Balance:</b>				<b>\$0</b>

**Ineligible Proposals****Remarks**

Central Valley Opportunity Center	Community Learning for Limited English Speaking Persons	\$46,062	Conflict of Interest form incomplete
Community Housing & Shelter Services	Housing Service - Case Management	\$64,799	Conflict of Interest form incomplete
Community Housing & Shelter Services	Supportive Housing - Case Management	\$31,531	Conflict of Interest form incomplete
Disability Resource Agency for Independent Living	Assistive Technology Services	\$20,000	Insurance expired
United Way	Information & Referral Program	\$27,377	Conflict of Interest form incomplete
West Modesto King Kennedy Collaborative	Here's to Your Health	\$94,636	Conflict of Interest form incomplete
		<b>\$284,405</b>	

## COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

### **PARTIALLY FUNDED:**

#### Healthy Aging – Young At Heart

Requested: \$27,902

Recommended: \$12,686

Partial funding is recommended to cover the salaries requested for direct service positions described in the proposal only. As detailed in the agency's request this amount will cover the need for instructors and their benefits, except the tai chi instructor for whom the need was not described in Section II, Q 4.

Funding was not allotted for education/outreach personnel, audit, program materials, or program supplies. Proposal did not contain sufficient detail to establish need.

#### Project Sentinel – Tenant Landlord

Requested: \$35,000

Recommended: \$24,000

Funding recommendation allows renewal of last year's level of service. Proposal did not contain sufficient information regarding increase in service, and its subsequent effect on program budget to warrant increase.

#### Stanislaus Literacy Center – Adult Literacy

Requested: \$34,325

Recommended: \$15,497

Proposal was vague in addressing program outcomes. Funding granted for program materials and other line item expenses detailed in "Project Budget." Committee did not find adequate budget detail to fund rent request. Additionally, audit and telephone will not be eligible expenses.

### **NOT FUNDED:**

#### Victory Life Center – Paperless Application System

Requested: \$20,000

Recommended: Not recommended for funding

Does not sufficiently improve service or programming for low-income Modesto residents. Outcomes were unclear.

#### Victory Life Center – Emergency Food Pantry

Requested: \$20,000

Recommended: Not recommended for funding

Budget did not include specific food items or costs, projected meals served, or cost per client. Project description does not contain sufficient detail on intended implementation and food purchase strategy. Program outcomes are vague.

**CDBG Homeless Services Applications 2005-2006**

**Amount Available for Non-Profit Agencies:            \$75,000**

	<b>Organization Name</b>	<b>Program Name</b>	<b>Funding Requested</b>	<b>Recommendation</b>
1	Children's Crisis Center	Sawyer House Children's Homeless Shelter	\$14,040	\$14,040
2	Interfaith Ministries	Santa Fe Emergency Shelter for Families with Minor Children	\$38,761	\$38,761
		<b>Total:</b>	<b>\$52,801</b>	<b>\$52,801</b>
		<b>Remaining Balance:</b>		<b>\$22,199</b>

<b>Ineligible Proposals</b>			<b>Remarks</b>
Community Housing & Shelter Services	Housing Services - Case Management	\$64,799	Conflict of Interest form incomplete
Community Housing & Shelter Services	Rental Assistance	\$25,500	Conflict of Interest form incomplete
		<b>\$90,299</b>	

**ESG Applications 2005-2006**

**Amount Available for Non-Profit Agencies:                    \$104,391**

	<b>Organization Name</b>	<b>Program Name</b>	<b>Funding Requested</b>	<b>Recommendation</b>
1	Center for Human Services	Hutton House - Repairs & Maintenance	\$19,742	\$8,971
2	Children's Crisis Center	Cricket's House Children's Homeless Shelter	\$14,040	\$14,040
3	Stanislaus Community Assistance Project	Halo House Furnishings	\$12,000	\$0
		<b>Total:</b>	<b>\$45,782</b>	<b>\$23,011</b>
		<b>Remaining Balance:</b>		<b>\$81,380</b>

<b>Ineligible Proposals</b>			<b>Remarks</b>
Community Housing & Shelter Services	Emergency Shelter	\$29,500	Conflict of Interest form incomplete
Community Housing & Shelter Services	Laura's House Sewer Repair	\$13,500	Conflict of Interest form incomplete
Salvation Army	Winter Emergency Shelter	\$87,784	Conflict of Interest form incomplete Business License expired Insurance expired
		<b>\$130,784</b>	

**EMERGENCY SHELTER GRANT (ESG)**

**PARTIALLY FUNDED:**

Center for Human Services – Hutton House, Repairs & Maintenance

Requested: \$19,472

Recommended: \$8,971

Program was funded for necessary repairs. Estimates and sufficient need for exterior/interior painting of house were not established. These projects at \$5,000 each are not recommended for funding.

**NOT FUNDED:**

Stanislaus Community Assistance Protect – Halo House Furnishings

Requested: \$12,000

Recommended: INELIGIBLE

HUD has determined ESG is not an eligible funding source for the project described.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-203**

**A RESOLUTION AUTHORIZING STAFF TO CONDUCT A SECOND ROUND  
OF REVIEW FOR PROPOSALS FOR DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT ENTITLEMENTS ORIGINALLY DEEMED  
INELIGIBLE DUE TO INCOMPLETE DOCUMENTATION, UTILIZING  
\$22,199 of CDBG FUNDS DESIGNATED FOR HOMELESS SERVICES, AND  
\$81,380 in ESG FUNDS**

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, in Fiscal Year 2005-2006, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of CDBG funds of \$435,953 be allocated to qualified non-profit agencies for public services, CDBG Revolving Loan funds of \$52,801 be allocated for services for the homeless, and ESG funds of \$23,011 be allocated for emergency shelter services, and

WHEREAS, at its March 25, 2005, meeting, the CH&CDC recommended that staff conduct a second round of review for proposals originally deemed ineligible due to incomplete documentation, utilizing \$22,199 of CDBG funds designated for homeless services, and \$81,380 in ESG funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to conduct a second round of review for proposals



originally deemed ineligible due to incomplete documentation, utilizing \$22,199 of CDBG funds designated for homeless services, and \$81,380 in ESG funds.

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-204**

**A RESOLUTION AMENDING SECTIONS 3 AND 14 OF RESOLUTION NO. 2004-627 ENTITLED "A RESOLUTION RESCINDING ALL PREVIOUS WATER FEE RESOLUTIONS, ESTABLISHING A SINGLE RATE BASE, AND ESTABLISHING FEES FOR THE PROVISION OF WATER AND ALL FEES ASSOCIATED WITH WATER OPERATIONS AND MANAGEMENT"**

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (MMC) authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, on November 23, 2004, the City Council adopted resolution No. 2004-627 rescinding all previous water fee resolutions, establishing a single rate base, and establishing fees for the provision of water and all fees associated with water operations and management, and

WHEREAS, City staff has recommended a change to clarify that water connection charges are actual hookup fees and are not land based, and

WHEREAS, this change would require water connection charges to be due only at the time a building permit is issued, and

WHEREAS, Resolution No. 2004-627 is hereby amended solely with respect to Sections 3 and 14, and

WHEREAS, Resolution No. 2004-627 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 Council of the City of Modesto as follows:

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System ("System") - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a variable component including the distribution of estimated costs of service obligations allocated to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity charges, and include all deficiency charges.

E. Deficiencies - Water facilities required by law or recommended by generally recognized authority as being necessary to the provision of a modern, safe,

adequate, water system of the City's size, with prudent reserves of quantity, pressure and transmission infrastructure to meet reasonably foreseeable contingencies that are absent from the City water System at any particular point in time.

F. MMC - Modesto Municipal Code.

G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-35 day month commencing from date of initiation of water service, and continuing until water service termination. The Finance Director, or designee, shall have the authority to, from time to time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO THE RATEPAYER. In accordance with law, the charge for all water delivered by the System shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall consist of two components: fixed costs, such as those for billing, meter reading where applicable, and other general overhead, and variable costs, such as proportionate costs of the acquisition and transmission of water, removal of deficiencies, higher operating and maintenance costs apportioned to ratepayers with service demands requiring larger meters, and the costs of the commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs. These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.
4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.

SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.

SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost "Justification and Cost Allocation for Proposed Water System Improvements Study", accepted by Council on September 14, 2004, that 74.2% of the City's water acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED

CHARGES FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

Proposed Monthly Metered Water Rates (by meter size)					
	Year 1 1-Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
Volume-based Rate (\$/hcf)	\$0.84	\$1.01	\$1.16	\$1.22	\$1.28
Fixed Monthly Meter Charge (in addition to volume-based charges)					
5/8"-3/4" meter	\$9.01	\$10.82	\$12.44	\$13.06	\$13.71
1" meter	\$12.78	\$15.34	\$17.64	\$18.52	\$19.45
1-1/2" meter	\$22.13	\$26.55	\$30.53	\$32.06	\$33.66
2" meter	\$33.38	\$40.06	\$46.06	\$48.37	\$50.79
3" meter	\$63.43	\$76.12	\$87.53	\$91.91	\$96.51
4" meter	\$97.19	\$116.63	\$134.13	\$140.83	\$147.88
6" meter	\$190.95	\$229.14	\$263.51	\$276.68	\$290.51
8" meter	\$303.49	\$364.19	\$418.82	\$439.76	\$461.75
10" meter	\$434.84	\$521.80	\$600.07	\$630.08	\$661.58
12" meter	\$809.95	\$971.95	\$1,117.74	\$1,173.62	\$1,232.31

hcf = Hundred cubic feet

The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES. The charge for all water delivered from an unmetered service after December 31, 2004, has been cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

Proposed Monthly SFR Flat Water Rates*					
	Year 1	Year 2	Year 3	Year 4	Year 5
	1 Jan-05	1-Jul-05	1-Jul-06	1-Jul-07	1-Jul-08
0-5,000 sq. ft. lot	\$24.47	\$29.36	\$33.77	\$35.45	\$37.23
5,001-7,000 sq. ft. lot	\$27.81	\$33.37	\$38.38	\$40.30	\$42.31
7,001-11,000 sq. ft. lot	\$33.00	\$39.60	\$45.54	\$47.82	\$50.21
11,001-17,000 sq. ft. lot	\$35.03	\$42.04	\$48.34	\$50.76	\$53.30



Over 17,000 sq. ft. lot	\$41.19	\$49.42	\$56.84	\$59.68	\$62.66
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SFR = Single Family Residential

\* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.

SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of "buying-into" the existing system, this will result in the establishment of connection charges. The connection fee study is incomplete at the date of this resolution. This resolution will be restated and amended to include appropriate charges when the City Council has accepted the subject report. Until then, existing connection fees are restated and made applicable to growth by Section 14 of this resolution.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and

volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance Demographics Research Unit.

SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

- (a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:  
Current Flat Rate for Smallest Lot  
Area + Current City Utility Tax x 4  
months

- (b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on the full size of the lot unless the owners request the water to be turned off at the end of 120 days.
- (c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.
- (d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.

- (e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management

services have been calculated and are hereby imposed as follows:

USER FEES	AMOUNT
Deposit	Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.
Disconnect	\$10.00
Reconnect	\$10.00
Late Payment Penalty	\$4.35
Returned Check	\$10.00
Collection Agency	\$16.50
Water Disconnection Notice (final notice mailed or doorhangers)	\$10.00
Unauthorized Reconnect (illegal on)	\$25.00
Lock Breakage/Lock Replacement	\$75.00
Disconnect Waterline at Main for Non-payment (line cut)	\$375.00

DEVELOPMENT FEES	AMOUNT
Connection Charge	\$.05 per sq. ft. of gross lot area
Water Main Installation Charge	\$18.00 per lineal foot of lot frontage
Water Service Installation Charge 1" Service 1-1/2" Service 2" Service 4" Service 6" Service 8" Service 10" Service or larger	\$1,108.00 \$1,130.00 \$1,156.00 \$2,131.00 \$2,131.00 \$2,347.00 At Cost
Water Meter Fee 1" Meter/New Service - pedestrian lid 1" Meter/New Service - traffic lid 1" Meter/Retrofit Service - pedestrian lid 1" Meter/Retrofit /Service - traffic lid 1-1/2" Meter with pedestrian lid 1-1/2" Meter with traffic lid 2" Meter with pedestrian lid 2" Meter with traffic lid 4" Meter 6" Meter 8" Meter 10" Meter or larger	\$115.00 \$176.00 \$520.00 \$600.00 \$484.00 \$545.00 \$520.00 \$582.00 \$1,820.00 \$2,400.00 \$3,350.00 At Cost
Pavement	\$439.00 for each trench
Parcel Reduction	\$37.00
Water Connection for Main extension	\$2,820.00
Reimbursement Agreement Preparation	\$175.00
Outside City Limits Agreement	\$35.00
Fire Hydrant Installation (each)	\$2,635.00
Fire Hydrant Line from Main per Lineal Foot	\$3.00
Pavement Replacement	\$439.00

Fire Main Test	\$90.00
Deposit to Install Meter on Fire Hydrant for Construction Water	\$500.00
Fire Hydrant Meter Use Deposit	\$500.00
Fire Service Installation Inspection/Test	\$90.00
Install 4" Single Check Valve	\$390.00
Install 6" Single Check Valve	\$479.00
Install 8" Single Check Valve	\$688.00
Voluntary Installation of Fire Sprinklers, Apartments	8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes, Townhouses	\$50.00

All Development fees shall be due and may only be paid at the time a building permit is issued. Development fees shall be calculated and collected based on the proportionate area of the parcel for which the building permit is being issued and/or the parcel is being developed and only for those connections required for actual issuance of the building permit. No other Development fees for the remainder of the parcel may be paid until further building permits are issued. For purposes of this paragraph the Public Works Director, or designee, shall determine the proportionate area of the parcel being developed. The decision of the Public Works Director in this regard shall be final.

SECTION 15. This resolution shall become effective on and after April 26, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-205

A RESOLUTION ACCEPTING THE WORK BY ALLRIGHT DIVERSIFIED SERVICES, INC., FOR THE "ADA UPGRADES FOR KING-KENNEDY MEMORIAL CENTER" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$180,342.73 PER THE CONTRACT. TOTAL PROJECT COST IS \$280,998.35

WHEREAS, a report has been filed by the Public Works Director that the project titled "ADA Upgrades for King-Kennedy Memorial Center" has been completed by Allright Diversified Services, Inc., in accordance with the contract agreement dated January 6, 2004,

NOW, THEREFORE, BE IT RESOLVED that the "ADA Upgrades for King-Kennedy Memorial Center" project be accepted from said contractor, Allright Diversified Services, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$180,342.73, 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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-206**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS ON THE "INTERIOR  
IMPROVEMENTS – WASTEWATER COLLECTION MAINTENANCE  
BUILDING" PROJECT FROM \$125,484.55 TO \$145,746.00, APPROXIMATELY  
19 AND 22 PERCENT RESPECTIVELY OF THE ORIGINAL CONTRACT  
PRICE WITH THE MCDONALD GLENN COMPANY**

WHEREAS, on January 6, 2004, the City Council awarded a \$660,445 contract to The McDonald Glenn Company to construct the "Interior Improvements – Wastewater Collection Maintenance Building" project, and

WHEREAS, the contractor started work on February 11, 2004, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of a useable building that conforms to code requirements, and

WHEREAS, the cost of the extra work was estimated to be as high as \$125,485, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Council by Resolution No. 2004-252 increased the Public Works Director's authority to approve change orders up to a cumulative amount of 19 percent of the original contract price, approximately \$125,485, and

WHEREAS, The McDonald Glenn Company, requested payment of an additional \$42,233 for added costs incurred by them as a result of the stop work directive issued by the City because of the fire service status, and

WHEREAS, these costs were not included in the various change orders executed for the project, and

WHEREAS, City staff negotiated these costs to an acceptable and justifiable amount of \$28,500, and

WHEREAS, the added unanticipated cost increased the total change order cost for the project to \$145,746, which exceeded the previously approved Director's Authority increase to \$125,485,

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 \$125,485 to \$145,746 for the project entitled "Interior Improvements – Wastewater Collection Maintenance Building."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-207**

**A RESOLUTION AMENDING THE FY 2004-2005 CAPITAL IMPROVEMENT BUDGET TO: A) REDUCE THE APPROPRIATION IN ACCOUNT NUMBER 6210-440-5201-0235, SERVICES, PROFESSIONAL & OTHER, BY \$7,500, AND RETURN THESE MONIES TO THE WASTEWATER FUND RESERVE BALANCE TO BE REALLOCATED. B) APPROPRIATE \$7,500 FROM WASTEWATER RESERVES TO PROJECT ACCOUNT NUMBER 6210-480-F743-6040, WASTEWATER COLLECTION MAINTENANCE BUILDING, THEREBY FULLY FUNDING THE PROJECT TITLED "INTERIOR IMPROVEMENTS - WASTEWATER COLLECTION MAINTENANCE BUILDING"**

WHEREAS, on January 6, 2004, the City Council awarded a \$660,445 contract to The McDonald Glenn Company to install the interior improvements in the Wastewater Maintenance Building exterior shell constructed under a previous contract, and

WHEREAS, items needing to be included in the project were excluded when the project was split into two phases, resulting in added construction costs not originally provided for in the project account, and

WHEREAS, the items of work now need to be added to the contract by change order, and

WHEREAS, a shortage of funds will occur once the change orders are executed, and

WHEREAS, the shortage has resulted in additional funds being required to fully fund the project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2004-2005 Capital Improvement Budget to (1) reduce the appropriation in account number 6210-440-5201-0235, Services, Professional & Other, by \$7,500, and return these monies to the Wastewater Fund Reserve Balance to

be reallocated, and (2) appropriate \$7,500 from Wastewater Reserves to project account number 6210-480-F743-6040, Wastewater Collection Maintenance Building, thereby fully funding the project titled "Interior Improvements - Wastewater Collection Maintenance Building".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-208

**A RESOLUTION ACCEPTING THE WORK BY THE MCDONALD GLENN COMPANY FOR THE "INTERIOR IMPROVEMENTS – WASTEWATER COLLECTION MAINTENANCE BUILDING" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$806,191 PER THE CONTRACT. TOTAL PROJECT COST IS \$2,346,647**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Interior Improvements – Wastewater Collection Maintenance Building" has been completed by The McDonald Glenn Company in accordance with the contract agreement dated January 6, 2004,

NOW, THEREFORE, BE IT RESOLVED that the "Interior Improvements – Wastewater Collection Maintenance Building" project be accepted from said contractor, The McDonald Glenn Company, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$806,191, 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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-209**

**A RESOLUTION APPROVING THE FOURTH AMENDMENT WITH GROTHE & SMITH ARCHITECTS, IN THE AMOUNT OF \$2,232, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT, TO PROVIDE ARCHITECTURAL SERVICES FOR THE WASTEWATER COLLECTION MAINTENANCE BUILDING, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT**

WHEREAS, on October 1, 1996, the City Council approved a professional services agreement with Grothe & Smith Architects, a California Corporation, to develop architectural building plans for the Wastewater Collection Maintenance Building, and

WHEREAS, on April 27, 1999, the City Council approved the second amendment to the agreement with Grothe & Smith Architects, to eliminate architectural enhancements after the City opened bids that were 20% high, and

WHEREAS, on January 11, 2000, the City Council approved the third amendment to the agreement with Grothe & Smith Architects, to modify design by increasing the elevation of the finished floor to conform with the updated FEMA Floodplain Maps, and

WHEREAS, during the course of rebidding and building construction, Grothe & Smith Architects provided additional services to make clarifications to the Contractor, and assist in the negotiation of Contract Change Orders, and

WHEREAS, Grothe & Smith Architects has requested additional fees for reimbursable expenses in the not to exceed amount of \$2,232.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the fourth amendment to agreement with Grothe & Smith

Architects, in the not to exceed amount of \$2,232.00, for additional design services provided on the Wastewater Collection Maintenance Building project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-210**

**A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION FOR  
GRANT FUNDING FROM THE URBAN FORESTRY GRANT PROGRAM, AS  
PROVIDED THROUGH PROPOSITION 12, IN THE AMOUNT OF \$50,000,  
WITH A \$12,500 LOCAL MATCH REQUIREMENT, FOR COMMUNITY  
FORESTRY REFORESTATION**

WHEREAS, the Governor of the State of California in cooperation with the California State Legislature has enacted Proposition 12, which provides funds to the State of California and its political subdivisions for urban forestry programs, and

WHEREAS, the State Department of Forestry and Fire Protection has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing application by local agencies and non-profit organizations under the program, and

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

WHEREAS, the applicant will enter into an agreement with the State of California to carry out a tree planting project, and

WHEREAS, the City proposes submitting a grant application in the amount of \$50,000, with a \$12,500 local match requirement, and

WHEREAS, said funds would be used to provide for Community Reforestation in the form of replanting trees lost due to disease, decline, death or storm damage,

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



1. Approves filing of an application for "PROPOSITION 12" tree planting grant program funds, and
2. Certifies that the City of Modesto has or will have sufficient funds to operate and maintain the project, and
3. Certifies that funds under the jurisdiction of the City Council of the City of Modesto are available to begin the project, and
4. Certifies that the City of Modesto will expend grant funds prior to March 31, 2008, and
5. Appoints the City Manager, or 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.

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-211**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR ON-CALL ENGINEERING SERVICES FOR THE PUBLIC WORKS  
DEPARTMENT - WASTEWATER COLLECTIONS DIVISION TO HDR AND  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE  
THE CONTRACT**

WHEREAS, the Wastewater Collections Division anticipates tasks that can be best accomplished with the maximum efficiency and effectiveness with outside consultant engineers providing targeted services, and

WHEREAS, last year, Wastewater Collection's engineering consultants combined with internal expertise, assisted in the compiling of asset information on the City's sanitary sewage system final asset analysis that was thorough, and

WHEREAS, a number of related, short-term projects are projected for the coming years which could involve numerous small projects ranging from trenchless technology to lift station efficiency analysis, and

WHEREAS, there is not sufficient in-house staff to perform these on-call engineering services, and

WHEREAS, proposals received for on-call engineering services were evaluated per evaluation criteria as defined in the RFP/RFQ, and

WHEREAS, a committee consisting of four (4) City staff from the Public Works Department evaluated proposals, and

WHEREAS, after evaluations were made, the top three companies were interviewed by Public Works Staff, and

WHEREAS, based on the total RFP/RFQ evaluation score and interviews with Public Works Staff, HDR is hereby deemed to be the most qualified firm for on-call engineering services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for on-call engineering services for the Public Works Wastewater Collections Division to HDR, and

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 26<sup>th</sup> day of April 2005, by Councilmember Jackman who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-212**

**A RESOLUTION APPROVING SUBMISSION OF AN APPLICATION TO  
THE DEPARTMENT OF TRANSPORTATION FOR A SMALL  
COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM GRANT IN  
THE AMOUNT OF \$550,000 FOR AN AIRLINES STARTUP INCENTIVE  
PROGRAM, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE APPLICATION ON BEHALF OF THE  
CITY**

WHEREAS, the Federal Department of Transportation (DOT) has called for the submission of applications for a Small Community Air Service Development Program Grant, and

WHEREAS, communities that will be considered eligible for funding must either have insufficient air service or have unreasonably high airfares, and

WHEREAS, the Modesto City-County Airport meets the Department of Transportation's definition of a small community that is lacking adequate air service and has unreasonably high airfares, and

WHEREAS, the City applied for a similar grant in 2004 and was unsuccessful in securing a grant at that time, and

WHEREAS, the DOT is encouraging communities such as Modesto who were not awarded grants in 2004 to resubmit their grant applications in 2005, and

WHEREAS, staff has prepared an application that encourages the participation of a public-private consortium of market area businesses and organizations in the program should the City be awarded a grant by DOT, and

WHEREAS, the application recommends a Regional Carrier to provide daily direct service from Modesto to Los Angeles International Airport, and

WHEREAS, the Council's Economic Development Committee considered the recommendation to submit an application for \$550,000 to the DOT and endorsed the recommendation at their April 11, 2005 meeting,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submitting a grant application for \$550,000 to the DOT for the Small Community Air Service Development Program.

BE IT FURTHER RESOLVED that Council authorizes the City Manager, or his designee, to execute the application 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 26<sup>th</sup> day of April 2005 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-213**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$132,162.80 CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT TITLED, "RUMBLE ROAD SIDEWALKS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT. TOTAL ESTIMATED COST OF THIS PROJECT IS \$237,239, WHICH INCLUDES RIGHT-OF-WAY, CONSTRUCTION CONTINGENCY, CONSTRUCTION ADMINISTRATION AND ENGINEERING DESIGN**

WHEREAS, the bids received for "Rumble Road Sidewalks" were opened at 11:00 a.m. on February 22, 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 \$132,162.80 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Teichert Construction, in the amount of \$132,162.80, and hereby awards Teichert Construction, the contract titled "Rumble Road Sidewalks."

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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Mash, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-214**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO BROWN AND CALDWELL, FOR \$342,473.96 TO COMPLETE DESIGN SERVICES FOR THE CELESTE, ROSE, AND SCENIC SANITARY SEWER IMPROVEMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto operates and maintains trunk lines on Celeste, Rose, and Scenic Avenues, and

WHEREAS, the Memorial Hospitals Association (“Hospital”) has proposed expansion plans on file with the City which include 2 additional Towers, and

WHEREAS, in March 2003, Black & Veatch completed a wastewater system capacity study that identified the improvements needed to provide adequate sewer service for the planned expansion of the Hospital’s existing site, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, a Request for Proposal for engineering design services was sent to six (6) qualified engineering firms,

WHEREAS, three Statements of Proposal were received and all firms were interviewed, and

WHEREAS, Brown and Caldwell was deemed most qualified and was selected for engineering design services, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with Brown and Caldwell to complete Design Services for the Celeste, Rose, and Scenic sanitary sewer improvements in an amount not to exceed \$342,473.96,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Brown and Caldwell to complete Design Services for the Celeste, Rose, and Scenic sanitary sewer improvements in an amount not to exceed \$342,473.96.

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 April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-215**

**A RESOLUTION ACCEPTING THE SCENIC/COFFEE ROAD IMPROVEMENTS  
FOR THE FORTY (40) FEET OF RIGHT-OF-WAY TO THE NORTH OF THE  
PROPERTY AT THE INTERSECTION OF COFFEE ROAD, AUTHORIZING  
THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND  
AUTHORIZING RELEASE OF BONDS**

WHEREAS, SCENIC ROAD PROPERTIES, a California Limited Partnership, entered into a CFF Reimbursement Agreement on November 12, 2002 for street improvements to the Scenic Road and Coffee Road Intersection (“Improvements”), and

WHEREAS, MODESTO COMMERCE, on behalf of SCENIC ROAD PROPERTIES has filed irrevocable letters of credit to secure faithful performance and payment for labor and materials in the amount of \$262,220.45 and \$131,110.23, respectively, and

WHEREAS, MODESTO COMMERCE, on behalf of SCENIC ROAD PROPERTIES, has filed an irrevocable letter of credit in the amount of \$26,030.00 to guarantee the Improvements, and

WHEREAS, the Public Works Director, in a memorandum to Council dated April 14, 2005, indicates that all work required by the Reimbursement Agreement was completed to the satisfaction of the Public Works Department as of March 24, 2005, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the Improvements as complete, and authorize the City Clerk to file a Notice of Completion and release the performance and labor and materials securities upon expiration of the statutory periods and to release the warranty security one year and one day from the date of acceptance.

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

1. The Scenic/Coffee improvements are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the Improvements.
2. The City Clerk is hereby authorized to release the security for faithful performance in the amount of \$262,220.40 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the security for labor and materials in the amount of \$131,110.23 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 improvements in the amount of \$26,030.00 one year and one day from the date of acceptance, 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 26<sup>th</sup> day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

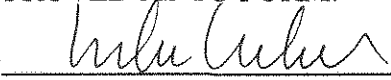
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-216**

**A RESOLUTION APPROVING THE FINAL MAP OF THE KODIAK VILLAGE  
III SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION  
AGREEMENT WITH PPC TUOLUMNE GROVE 2 LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY**

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 5.95 acres, known as the KODIAK VILLAGE III SUBDIVISION (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on July 16, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 30<sup>th</sup> day of August, 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 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 26th day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-217**

**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. 19 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 AT THE NORTH SIDE OF FLOYD AVENUE, BETWEEN TEMESCAL AND LINCOLN OAK DRIVES (NARAGHI TRUST)**

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 Naraghi Trust for a Precise Plan for Area No. 19, property located on the North Side of Floyd Avenue, between Temescal and Lincoln Oak Drives, 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 2005-08, 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. 2005-12, adopted on March 21, 2005, and City staff, by a report dated April 11, 2005, from the Community and Economic Development Department, recommend to the City Council approval of a Precise Plan for Area No. 19, and recommended approval of an amendment to Section 14-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay Zone, SP-O, property located on the north side of Floyd Avenue, between Temescal and Lincoln Oak Drives , and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 26, 2005, 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 Environmental Assessment No. EA/C&ED 2005-08, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plan Area # 19 & The Plaza VTSM", for the proposed Project, and the Council hereby makes the following findings:

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.



5. The Written Checklist, Environmental Assessment EA/C&ED 2005-08, provides the substantial evidence to support findings 1-4, above.

A copy of said Environmental Assessment No. EA/C&ED 2005-08, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plan Area # 19 & The Plaza VTSM", 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 twenty sixth day of April, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"  
WRITTEN CHECKLIST  
EA/C&ED NO. 2005-08

**Determination:  
Project within the Scope of the  
Village One Specific Plan  
Program Environmental Impact Report for  
Precise Plan Area #19 & The Plaza VTSM**

*Prepared for:*

City of Modesto  
P.O. Box 642  
Modesto, CA 95353  
Contact: Josh Bridegroom  
209/571-5540

*Prepared by:*

Josh Bridegroom, Associate Planner  
City of Modesto  
Community & Economic Development Department  
209/571-5540

March 7, 2005

# WRITTEN CHECKLIST

EA/C&ED No. 2005-08

## I. PURPOSE

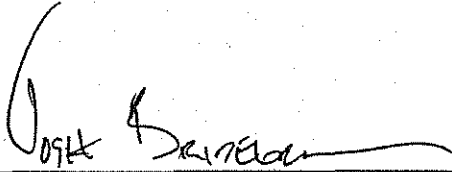
This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were 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 Area #19 and The Plaza VTSM (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:** Precise Plan 19 & The Plaza VTSM
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Josh Bridegroom, Associate Planner  
Modesto Community & Economic Development  
Department  
209/571-5540

- (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 19 and The Plaza VTSM are within the scope of the Village One Program EIR.



3/7/05

Project Manager

Date

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
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**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.

	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

	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>VI. GEOLOGY AND SOILS.</b> 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.

	Impact	with Mitigation Incorporated	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.

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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.

- 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?

## 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.

### 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?
- d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
- e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?
- f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?

Impacts associated with noise are analyzed on pages 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

**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
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**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"/> |

## 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
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### XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

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?
- b. Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)
- c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Cumulative impacts are analyzed on page III-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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-218**

**A RESOLUTION APPROVING RENAMING THAT SEGMENT OF NORTH  
MARTIN LUTHER KING DRIVE LOCATED BETWEEN MAZE BOULEVARD  
AND PARADISE AVENUE, TO SOUTH MARTIN LUTHER KING DRIVE**

WHEREAS, in 1984 at the public's request both N. Franklin Street and S. Franklin Street were renamed to N. Martin Luther King Drive in honor of the Rev. Martin Luther King, and

WHEREAS, during the efforts made to rename both N. & S. Franklin Street to N. Martin Luther King Drive the existing address numbering system was not updated to reflect the name change and this situation created a potential for the duplication of addresses, and

WHEREAS, in November 2004, developers attempting to erect new homes on vacant properties along N. Martin Luther King Drive discovered the address duplication issue and reported the problem to the City of Modesto for resolution, and

WHEREAS, City staff in coordination with 911 Emergency Services explored several possibilities to resolve this issue and concluded that renaming the segment of N. Martin Luther King Drive that is located south of Maze Boulevard, to S. Martin Luther King Drive, would resolve the address duplication issue, and

WHEREAS, the City of Modesto held a community meeting on March 3, 2005, to discuss the proposed rename recommendation with both residents and property owners and no opposition was expressed at the meeting, and



WHEREAS, the Economic Development Committee at its March 7, 2005, meeting reviewed the request from the City of Modesto to rename that portion of N. Martin Luther King Drive, located between Maze Boulevard and Paradise Avenue, to S. Martin Luther King drive, and

WHEREAS, The Economic Development Committee voted to recommend to the City Council approval of the rename request, and

WHEREAS, the street name change request has been referred to the Police Chief, Fire Chief, and the Public Works and Transportation Departments, and the Stanislaus County Emergency Services, and no objections were received, and

WHEREAS, Section 34091.1 of the Government Code of the State of California provides that when the existing name of any city street should be changed, the legislative body may adopt a resolution to change the name of existing streets, and

WHEREAS, the City of Modesto has adopted a Street Name Change Policy No. 3.017 to give affected property owners adequate time to adjust to the street name change by notifying banks, friends, etc., and said policy provides that street name changes shall not take effect until at least 180 days from City Council action, and

WHEREAS, said matter 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 April 26, 2005, and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the proposal to rename that portion of N. Martin Luther King Drive, located between Maze Boulevard and Paradise Avenue, to S. Martin Luther King Drive.

BE IT FUTHER RESOLVED that, in accordance with Government Code Section 34092, the City Clerk is directed to transmit a certified copy of this resolution to the Stanislaus County Board of Supervisors.

BE IT FUTHER RESOLVED, that City Staff shall:

- 1). Immediately notify affected public agencies, utility companies, and City departments regarding the name change;
- 2). Replace the street name signs and remove unnecessary signage;
- 3). Update City maps and immediately notify map companies of the street name change; and
- 4). Notify the affected property owners as provided in City Council Policy No. 3.017.

BE IT FUTHER RESOLVED, that the street name change shall become effective 180 days after adoption of this resolution, in accordance with Council Policy 3.017.

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 April 2005, by Council member 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, Jackman, Keating, Mash, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-219**

**A RESOLUTION AMENDING SECTION 1 OF RESOLUTION NO. 85-240  
ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR  
PLANNED DEVELOPMENT ZONE, P-D(371), (ROBERT L. ERICKSON)." (BOB  
ERICKSON)**

WHEREAS, the City Council, by Ordinance No. 1616-C.S., which was introduced on April 25, 1977, finally adopted on May 2, 1977, and which became effective on June 1, 1977, amended Section 18-3-9 of the Zoning Map to reclassify from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(159), and

WHEREAS, Modesto City Council Resolution No. 77-435, which was approved on April 25, 1977, approved a development plan for Planned Development Zone, P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was introduced on February 8, 1983, finally 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 approved on February 8, 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 introduced on April 23, 1985, finally adopted on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of the Zoning Map to reclassify from 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 April 23, 1985, approved of a development plan for Planned Development Zone, P-D(371),

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by Bob Erickson on December 28, 2004, to allow General Commercial Zone, C-2, uses 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 March 21, 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. 2005-13, 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 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 General Commercial 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. Expanding the uses would provide flexibility to the Planned Development Zone and provide ample opportunity for redevelopment of the infill property.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 26, 2005, 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 Bob Erickson 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. 2005-13 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3388-C.S. on the 26<sup>th</sup> day of April, 2005, amending Section 2 of Ordinance No. 2327-C.S. to add General Commercial Zone, C-2, uses in addition to the existing skating rink, family amusement center, and a mini storage facility, in Planned development Zone, P-D(371).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 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. 85-240, not in conflict with this action shall remain in full force and effect.
2. All development shall conform to the plot plan titled "Plot Plan to Amend Planned Development" as amended in red, stamped approved by the Planning Commission on March 18, 1985.
3. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

4. Trash cans shall be screened from view from any public street.
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.

SECTION 2. DEVELOPMENT SCHEDULE. The proposal does not involve new improvements on site, no new development schedule is proposed.

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.3388amending Ordinance No. 2327-C.S becomes effective.”

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 April, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-220**

**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 (BOB  
ERICKSON)**

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, Bob Erickson has proposed an amendment to Planned Development Zone P-D(371) to allow C-2 General Commercial Zone uses on site in addition to the existing Skating Rink, Family Amusement Center, and a Mini Storage Facility 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. 2005-07

(“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. 2005-13 recommended to the City Council approval of the application of Bob Erickson 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 C-2 General Commercial uses on site as set forth in said Resolution No. 2005-13, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 26, 2005, 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 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 General Commercial 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. 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 2005-07, 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 26<sup>h</sup> day of April 2005, 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, Jackman, Keating, Mash, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, 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- 07)**

**For the proposed:**

**PDA- Amendment to Planned Development P-D (371)**

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

**02/25/05**

**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 Amendment 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: PDA – Roller King, Planned Development Amendment, P-D (371)
- B. Address or Location: 2000 W. Briggsmore Avenue
- C. Applicant: Robert Erickson, 3883 Blue Bird Lane, Loomis, Ca. 95650
- 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
- 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 P-D zone designation. Currently the existing building within this Planned development P-D (371) only permits a skating rink business. The proposed amendment would expand the uses allowed within the building to include C-2 Zone uses. The proposed project will not involve any expansion to the boundaries of the property nor does it include expansion or modification to the existing building. No physical changes will occur and none are requested by the city as conditions of approval for this zone amendment.

- 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.

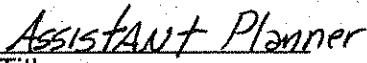
3. **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

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

 3-2-05  
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.

This project involves an amendment to the existing Planned Development P-D (371) to expand the existing uses to include C-2 General Commercial Uses. Because the project only involves a zone amendment to a previously approved project development, no increase in vehicle traffic is expected. The use and activities will not change to a level that will cause a change to the existing road capacities or levels of service. The previously approved P-D (371) project was designed to accommodate intense commercial activities.

**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"/> | X  |

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

- |  | YES                      | NO |
|--|--------------------------|----|
| (2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). | <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 proposed development will involve an amendment to the Planned Development zone. No physical changes to the site or building are included with this proposal. The previously approved site design will remain unaltered and as a result will remain in compliance to city regulations. All previous conditions, mitigations, and requirements will remain in full effect for this proposal and shall be made a condition of approval.

**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:

There are no mitigation measures applicable to this 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
(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) The existing Planned Development 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 zoning amendment to the existing Planned Development zone.
- (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:

There are no mitigation measures applicable to this 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.  YES  NO
- (2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.  YES  NO
- (3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  YES  NO

- (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 existing business is in compliance to the City's noise policy. As indicated above the proposed project will only involve an amendment to the Planned Development zone. No additional noise issues will be created.
- (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 previously approved project and business. These conditions will remain in effect for this new P-D proposal.
- (3) No noise levels will be increase due to the amendment to the Planned development zone project. Therefore, this project will not result in a substantial permanent increase in ambient noise levels. Any future development, site modifications, or building additions would be reviewed for compliance to the General Plan, the municipal code, and the Master EIR.
- (4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be no construction related noise proposed for the site. Mitigation measures called for by the General Plan for projects within the baseline-developed area are not required.

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

existing entitlements and resources, new or expanded entitlements are needed.

#### 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 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 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. This site is fully developed, within the urbanized area of the city, and is completely surrounded by urbanization.

**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. 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:

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

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

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <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.

## 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:

There are no mitigation measures applicable to this 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:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project does not propose to increase the impervious surface on the property. The project will not require new Development-Storm Water Quality Control Measures, as adopted by the City, due to the lack of any physical development to the existing site.
- (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:

There are no mitigation measures applicable to this 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:

- (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) The project complies 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.  X

**DISCUSSION:**

- (1) The project is consistent with the 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 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 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.*

This office project will not generate additional waste that will impact facilities. The proposed project is an amendment to the existing Planned development zone with no physical modification to the property.

**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 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-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. (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 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 involves an amendment to the existing Planned development zone that would expand on the uses permitted within the existing building. The site is fully developed and as is an 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. 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:

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

**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. 2005-221**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND  
NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY  
AND IMPROVEMENTS TO REAL PROPERTY FROM JOSEPHINE  
CIPPONERI, AS TRUSTEE OF THE JOSEPHINE CIPPONERI 1999 TRUST  
AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR  
THE SYLVAN AVENUE STREET IMPROVEMENTS PROJECT**

**REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY LOCATED  
ON APN 077-046-079 ( OWNER: JOSEPHINE CIPPONERI, TRUSTEE OF THE  
JOSEPHINE CIPPONERI 1999 TRUST)**

WHEREAS, in accordance with the Modesto Urban Area General Plan, it is desirable and necessary for the City of Modesto to acquire a portion of real property and improvements to real property on APN 077-046-079 and commonly identified as 2500 Sylvan Avenue, 2512 Sylvan Avenue, and 2514 Sylvan Avenue and more particularly described and depicted in Exhibits "A", "B", and "C", attached hereto and made a part hereof by reference, in order to implement the Sylvan Widening 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 offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

WHEREAS, the hearing set out in the notice was held on April 26, 2005 at the time and place stated therein, and all interested parties were given an opportunity to be heard. Thereafter, the hearing was closed. Based upon the evidence presented, the Council by vote of two-thirds or more of its members, further FINDS, DETERMINES, RESOLVES 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" and "C" is 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. 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 an appraisal, 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 26th day of April 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

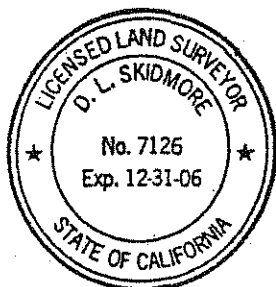


EXHIBIT "A"

ALL that certain real property situate in the City of Modesto, County of Stanislaus, State of California and lying in a portion of the East Half of the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

BEGINNING at the Northwest corner of Parcel 1 as shown on that map filed in Book 37 of Parcel Maps at Page 75, Stanislaus County Records; thence South 89°40'28" East along the North line of said parcel 1 and the Southerly right-of-way line of Sylvan Avenue, a distance of 209.00 feet to the Northeast corner of said Parcel 1; thence South 00°32'58" East along the East line of said Parcel 1, a distance of 26.00 feet; thence North 89°40'28" West, a distance of 209.00 to a point on the West line of said Parcel 1; thence North 00°37'08" West along last said line, a distance of 26.00 feet to the Point of Beginning.

Containing 5,434 square feet more or less.



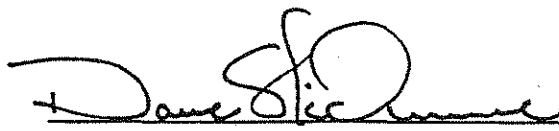
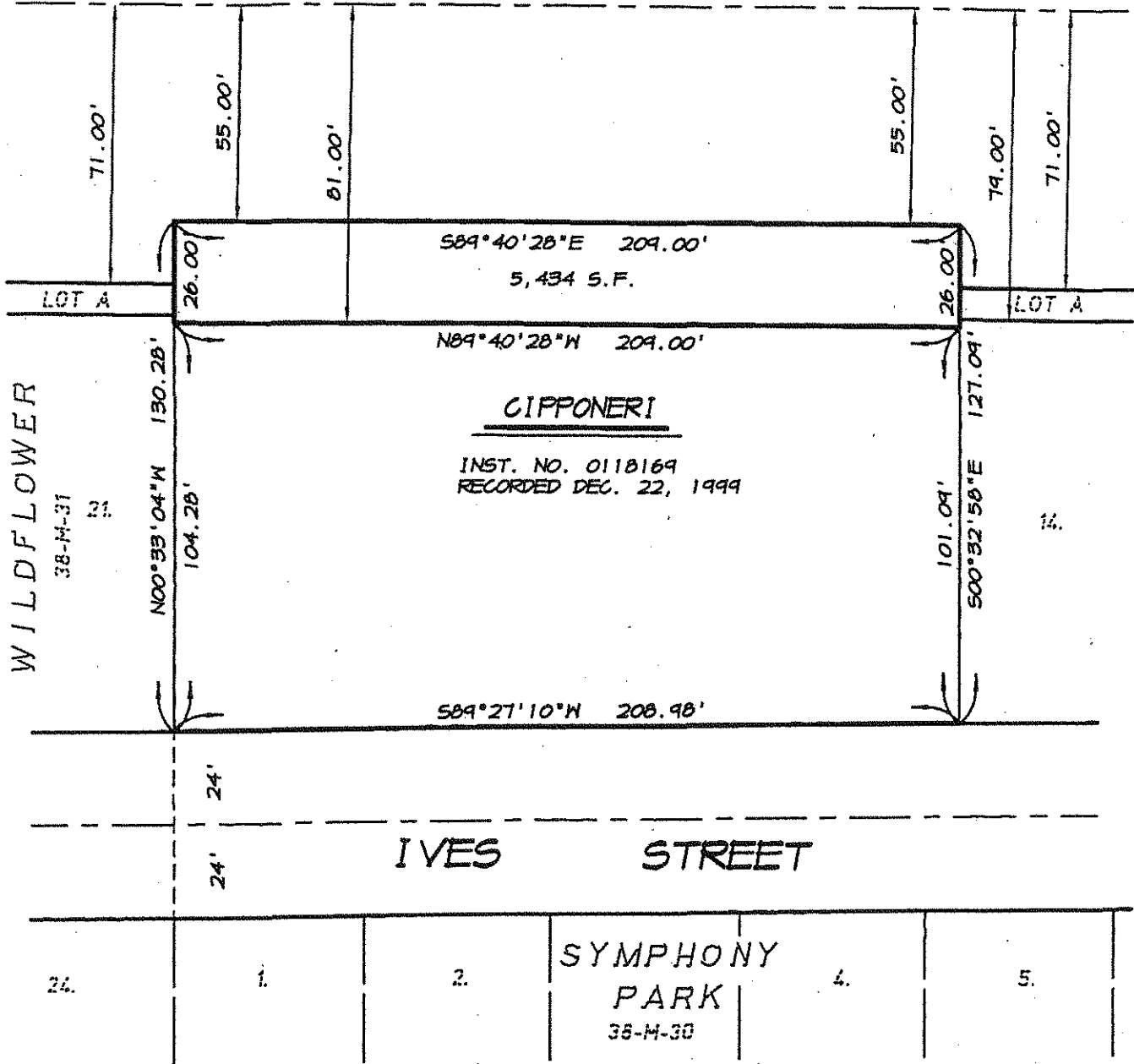
  
Dave L. Skidmore, L.S. 7126  
License Expires 12/31/06  
11/18/04

EXHIBIT "B"



SYLVAN AVENUE



DRAWN	DAVE
DATE	11/18/04 1:15
SCALE	1" = 40'
JOB #	246-03
DWG.	246-RW

EXHIBIT "B"  
 PLAT TO ACCOMPANY  
 LEGAL DESCRIPTION  
 CIPPONERI PARCEL  
 MODESTO CALIFORNIA



**ASSOCIATED ENGINEERING, INC.**  
 Surveying • Design • Planning  
 4206 TECHNOLOGY DRIVE  
 MODESTO, CALIFORNIA 95356  
 PH: (209) 545-3390 FAX: (209) 545-3875

## **EXHIBIT "C"**

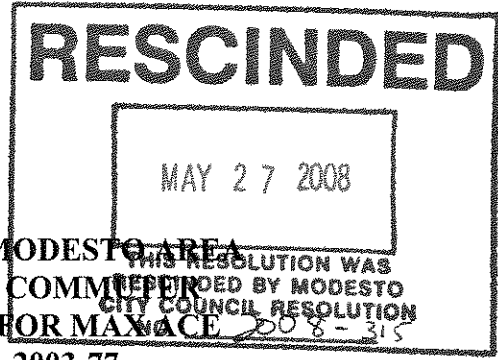
The proposed acquisition includes land within the 26 foot strip necessary for the right-of-way (described in Exhibit "A" and depicted in Exhibit "B") and buildings and improvements located thereon and on the remainder larger parcel consisting of the following improvements:

The detached 2,152 square foot single-family residence situated on the land being acquired and the remainder parcel commonly known as 2500 Sylvan Avenue;

A 1,900 square foot two-unit duplex structure situated on the land being acquired and the remainder parcel commonly known as 2512 Sylvan Avenue and 2514 Sylvan Avenue;

Yard improvements including concrete patios, wood fencing, brick barbeque, brick flowerbeds, and landscaping including trees, shrubs, bushes and flowers.

**EXHIBIT "C"**



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-222**

**A RESOLUTION AMENDING PASSENGER FARES FOR MODESTO AREA EXPRESS (MAX) BAY AREA RAPID TRANSIT (BART) COMMUTER EXPRESS SERVICE, RESTATING PASSENGER FARES FOR MAX BAY AREA EXPRESS, AND RESCINDING RESOLUTION NO. 2003-77**

WHEREAS, MAX BART Commuter Express operates between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, this service began in July 1998 with one bus providing two round trips per day and was expanded to two buses and four round trips per day in February 2001, and

WHEREAS, the cost of operating this route is \$206,000 per year and requires a subsidy of \$101,000 per year, and

WHEREAS, this subsidy is a combination of City Local Transportation Fund (LTF) monies (80%) and Federal Transit Administration (FTA) funds (20%), and

WHEREAS, fares for this route were last raised in May 2003 by Resolution No. 2003-77 to the current level of \$106.00 for a monthly pass, and

WHEREAS, increasing the MAX BART Commuter Express Fares to the recommended level will decrease the annual subsidy amount by \$25,671, and

WHEREAS, the Council Economic Development Committee recommended approval of fare increases for the BART Commuter Express at its March 7, 2005 meeting, and

WHEREAS, a duly noticed public hearing was held by the Council on April 26, 2005, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposed fare increases for the MAX BART Commuter Express services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fare increases for passengers riding on the MAX BART Commuter Express operating between Modesto and the Dublin/Pleasanton BART station be approved:

- |    |  |          |
|----|--|----------|
| 1. | Full Month   | \$130.00 |
| 2. | Beginning the 8 <sup>th</sup> of the month                         | \$100.00 |
| 3. | Beginning the 15 <sup>th</sup> of the month                        | \$67.00  |
| 4. | Beginning the 22 <sup>nd</sup> of the month                        | \$36.00  |
| 5. | Half-Month Pass (1 <sup>st</sup> – 15 <sup>th</sup> of each month) | \$67.00  |
| 6. | Round-trip   | \$13.00  |
| 7. | One-way  | \$11.00  |

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the following fares are hereby restated for passengers riding on the MAX ACE Express operating between Modesto and the Manteca/Lathrop ACE Train station:

- |    |  |         |
|----|--|---------|
| 1. | One-Way Trip                             | \$2.00  |
| 2. | 20-Ride Ticket (\$1.50 per one-way trip) | \$30.00 |

BE IT FURTHER RESOLVED by the Council of the City of Modesto that this resolution shall go into effect on and after August 1 2005.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2003-77 is hereby rescinded effective July 31, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-223**

**A RESOLUTION SUPPORTING THE PURCHASE OF A NEW COMMUTER  
BUS FOR THE MODESTO AREA EXPRESS (MAX) BAY AREA RAPID  
TRANSIT (BART) COMMUTER EXPRESS SERVICE**

WHEREAS, MAX BART Commuter Express operates between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, this service began in July 1998 with one bus providing two round trips per day and was expanded to two buses and four round trips per day in February 2001, and

WHEREAS, the purchase of a new bus has been planned and is contained in the City's Capital Improvement Program, and

WHEREAS, this additional commuter bus would allow for maintenance of the other two commuter buses, while ensuring the comfort of our passengers, and

WHEREAS, the approximate cost of this bus is \$475,000 and a CMAQ grant in the amount of \$158,394 was received from StanCOG specifically for the purchase of this bus, and

WHEREAS, Federal Transit Administration (FTA) revenues and Local Transportation Fund (LTF) monies will fund the remaining cost of this bus purchase, and

WHEREAS, the Council Economic Development Committee recommended support of this bus purchase at its March 7, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of a new commuter bus for the MAX BART Commuter Express service be supported.

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 April 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-224**

**A RESOLUTION AUTHORIZING THE PURCHASING  
SUPERVISOR TO FORMALLY SOLICIT PROPOSALS FOR  
PRUNED REFUSE, LEAF, AND FORESTRY MATERIALS  
COLLECTION SERVICES, FOR A FIVE (5) YEAR PERIOD  
WITH AN OPTION TO RENEGOTIATE ONE (1) ADDITIONAL  
FIVE (5) YEAR PERIOD AND WITH AN OPTION TO PROVIDE  
A QUOTATION FOR COMPOSTING SERVICES**

WHEREAS, the City of Modesto's Public Works Department, Urban Forestry Division provides pruned refuse, leaf, and forestry materials collection to over 57,000 residential customers, and

WHEREAS, funding for the pruned refuse collection and a portion of the forestry materials collection is provided by City's Wastewater Fund, and

WHEREAS, funding for leaf collection is provided by the City's Storm Drain Fund, and

WHEREAS, the pre-eminent reason for seeking proposals from the private sector is to determine if the nexus for funding pruned refuse collection and a portion of the forestry materials collection out of the Wastewater Fund is no longer strong enough to continue such funding, and

WHEREAS, the leaf collection program is an adjunct to the pruned refuse collection program, and it would be inefficient and not cost-effective for the City to continue to perform leaf collection if pruned refuse collection and a portion of the forestry materials collection services are privatized, and

WHEREAS, under state law, pruned refuse, leaves, and forestry materials are considered "solid waste", and

WHEREAS, the City has exclusive service agreements with three private sector collection companies for the collection of residential and commercial solid waste, and

WHEREAS, if the City privatizes the collection of these materials, provision of these services would be limited to these licensed companies, and

WHEREAS, at the July 13, 2004 Council meeting, the City Council adopted Resolution No. 2004-368 authorizing staff to negotiate with the City's licensed solid waste collection companies to provide pruned refuse, forestry materials, and leaf collection services, and

WEHREAS, staff now desires to solicit a Request for Proposals (RFP) 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 with an Option to Provide a Quotation for Composting Services, and

WHEREAS, the Economic Development Committee met on February 7, 2005, and supported the recommendation to solicit Requests for Proposals for Pruned Refuse, Leaf, and Forestry Materials Collection Services, with an Option to Provide a Quotation for Composting Services, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Proposal for Pruned Refuse, Leaf, and Forestry Materials Collection Services, with an Option to Provide a Quotation for Composting 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 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 with an Option to Provide a Quotation for Composting Services, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be evaluated and analyzed based on stated evaluation criteria 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 26<sup>th</sup> day of April 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-225**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
JAMES E. LEONARD FROM THE AIRPORT ADVISORY COMMITTEE**

WHEREAS, JAMES E. LEONARD was appointed a member of the Airport Advisory Committee on March 23, 2004, and

WHEREAS, JAMES E. LEONARD has tendered his resignation from the aforementioned committee, and

WHEREAS, JAMES E. LEONARD 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 E. LEONARD 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 E. LEONARD 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 3<sup>rd</sup> day of May 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-226**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR  
NATIONAL ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FUNDS IN  
THE AMOUNT OF \$390,000 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 \$650 million dollars to carry out the Assistance to Firefighter's Grant Program, and

WHEREAS, the Office for Domestic Preparedness 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 Office for Domestic Preparedness require the applicant to provide 20% local matching funds, and

WHEREAS, the Fire Department has concluded that an application in the category of Firefighting Vehicle Acquisition Program is the most needed and the most likely to be successful, and

WHEREAS, the City of Modesto and Modesto Fire Department qualify to submit the grant application,

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 \$390,000.

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 his 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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-227**

**A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO  
TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO THE  
GENERAL FUND - POLICE OPERATIONS FOR THE PURCHASE OF THREE  
CANINES**

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is \$20,000, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-1961-5000	\$20,000	Police Field Operations
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Revenue:

From:	0100-190-1961-7202	\$20,000	Seized Forfeitures
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BE IT FURTHER RESOLVED that the Acting 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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-228**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN  
THE CITY OF MODESTO AND YOSEMITE COMMUNITY  
COLLEGE DISTRICT FOR THE CITY TO PROVIDE ONE  
POLICE SERGEANT FROM THE MODESTO POLICE  
DEPARTMENT TO SERVE AS THE TRAINING  
CENTER SERGEANT AT THE REGIONAL ACADEMY  
TRAINING CENTER AND AUTHORIZING THE CITY MANAGER  
TO EXECUTE THE AGREEMENT**

WHEREAS, the Yosemite Community College District (YCCD) has requested a Modesto Police Sergeant to fill its Academy Coordinator position for the regular basic course, and

WHEREAS, the Regular Basic Course is a complex curriculum of instructional units and testing requirements, and

WHEREAS, the task of managing the course is complicated by the frequency of instructional and testing changes, and

WHEREAS, the Academy Coordinator's qualifications and responsibilities include demonstrated ability to do law enforcement training and experience to coordinate the Regular Basic Course, and

WHEREAS, the position requires experience in supervising personnel, and in budgeting, administration and operations, and

WHEREAS, the term of the agreement is five years, commencing on July 1, 2005, and

WHEREAS, YCCD will reimburse the City of Modesto for the total cost – salary and benefits, cellular telephone and computer costs – of one Modesto Police Sergeant, and

WHEREAS, the Finance Committee unanimously endorsed this action at its meeting of February 14, 2005, and the Safety and Communities Committee unanimously endorsed this action at its meeting of February 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts and approves the Agreement between the City of Modesto and the Yosemite Community College District for the provision of one Modesto Police Sergeant to serve as Academy Coordinator of the Police Academy.

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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Council member Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-229**

**A RESOLUTION APPROVING THE ADDITION OF ONE NEW POLICE  
SERGEANT POSITION IN THE MODESTO POLICE DEPARTMENT TO  
SERVE AS THE ACADEMY COORDINATOR AT THE REGIONAL ACADEMY  
TRAINING CENTER**

WHEREAS, the Yosemite Community College District (YCCD) has requested a Modesto Police Sergeant to fill its Academy Coordinator position for the regular basic course, and

WHEREAS, the term of the agreement is five years, commencing on July 1, 2005, and

WHEREAS, YCCD will reimburse the City of Modesto for the total cost – salary and benefits, cellular telephone and computer costs – of one Modesto Police Sergeant, and

WHEREAS, this action is fiscally neutral, and

WHEREAS, the Finance Committee unanimously endorsed this action at its meeting of February 14, 2005, and the Safety and Communities Committee unanimously endorsed this action at its meeting of February 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves one new Police Sergeant position to the Modesto Police Department's authorized position allocation to serve as the Academy Coordinator at the Regional Academy Training Center.

BE IT FURTHER RESOLVED that City staff is hereby authorized to promote one new Police Sergeant.

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 May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Council member Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-230**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF  
PUMP STATION REJUVENATION SERVICES, FOR A TWO (2) YEAR  
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN  
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, and

WHEREAS, 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 the 113 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 repair, and

WHEREAS, needed repairs can be made in two (2) or three (3) days instead of two (2) or more weeks, and

WHEREAS, this is extremely important in the summer months, and

WHEREAS, funding for pump station rejuvenation services will come from the Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, contracts may be awarded to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and

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

WHEREAS, the issuance of a formal Request for Bid for the furnishing of pump station rejuvenation 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 bids for the furnishing of pump station rejuvenation services, for a two (2) year agreement, with three (3) one-year extension options, 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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-231**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF  
WELL REHABILITATION SERVICES, FOR A TWO (2) YEAR AGREEMENT,  
WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN ESTIMATED  
ANNUAL COST OF \$169,987**

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

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

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

WHEREAS, these old wells were designed with perforations in the walls to receive water from a variety of sources, and

WHEREAS, as the wells age many of the wall perforations become plugged and no longer function, and

WHEREAS, this reduces the water supply available at the well, and

WHEREAS, the Public Works Department, Water Division maintains the 113 water well sites, and

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

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



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

WHEREAS, contracts may be awarded to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and

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

WHEREAS, the issuance of a formal Request for Bid for the furnishing of well rehabilitation 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 bids for the furnishing of well rehabilitation services, for a two (2) year agreement, with three (3) one-year extension options, 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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-233**

**A RESOLUTION AUTHORIZING THE CITY MANAGER 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 TO EXECUTE THE NECESSARY  
DOCUMENTS TO OBTAIN SAID FUNDING**

WHEREAS, on March 9, 2005, 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 2005/06 and 2006/07, and

WHEREAS, on March 10, 2005, StanCOG staff distributed a call for CMAQ project nominations to local jurisdictions, further stipulating that \$7,590,718 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 \$2,241,909 in funds for eligible projects of its own choosing, and can also compete for as much as \$5.34 million available for projects that do the most to reduce air pollution in the county, and

WHEREAS, City staff has identified 15 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 April 11, 2005, 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 May 19, 2005, 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 authorized 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 authorized 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 3<sup>rd</sup> day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

Proposed 2005/06 & 2006/07 CMAQ Projects

<u>General Improvements</u>	<u>Total Cost</u>	<u>CMAQ</u>	<u>City Match</u>
Right-turn Lane - W/B Orangeburg/McHenry	\$350,000	\$309,855	\$40,145
Right-turn Lane - SB Sisk to Beckwith to NB 99 Ramps	\$1,100,000	\$973,830	\$126,170
Right-turn Lane - SB Sisk to Carpenter to NB 99 Ramps	\$1,100,000	\$973,830	\$126,170
Lighted Crosswalks	\$250,000	\$221,325	\$28,675
2nd Lane for S/B 99 Off-ramp at Standiford	\$400,000	\$354,120	\$45,880
Right-turn Lane - SB Sisk to Pelandale to NB 99	\$500,000	\$442,650	\$57,350
Changeable Message Signs	\$100,000	\$88,530	\$11,470
Left-turn Lane - Extension	\$250,000	\$221,325	\$28,675
WB Briggsmore East of McHenry			
<b><u>Signals</u></b>			
New Signals-2006 Claus/Sylvan Floyd/Lincoln Oak, Carpenter/Hatch, Coffee/Claratina, Tully/Stoddard	\$1,200,000	\$1,062,360	\$137,640
Upgrade Signals 2006 Briggsmore/Carver	\$200,000	\$177,060	\$22,940
<b><u>ATMS</u></b>			
Fiber - Pelandale CCTV Cameras Tully to Coffee	\$550,000	\$486,915	\$63,085
Fiber - 5th and 6th Streets CCTV Cameras	\$650,000	\$575,445	\$74,555
<b><u>Roundabouts</u></b>			
Collector Roundabouts - Three Locations	\$675,000	\$597,578	\$77,423
<b><u>Transit</u></b>			
Exhaust Scrubbers	\$150,000	\$132,795	\$17,205
Employee Rideshare	\$120,000	\$106,236	\$13,764
<b>Total Project Costs</b>	<b>\$7,595,000</b>	<b>\$6,413,999</b>	<b>\$831,002</b>
CMAQ Formula	\$2,241,909		
CMAQ Competitive	\$3,744,166		
CMAQ Discretionary	\$1,604,643		
<b>Total CMAQ Funds</b>	<b>\$7,590,718</b>		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-232**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

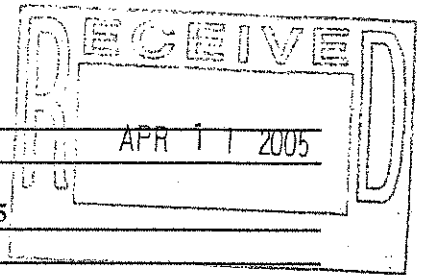
ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT



Contact Person: Lisa Forester  
 Telephone No.: 577-5480  
 Department: Parks, Recreation & Neighborhoods  
 Fund Title: Golf

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

<b>FROM</b>					
6600-800-8000-8003	6600R		(\$6,000)	(\$6,000)	Golf Fund, Contingency Reserve
<b>TO</b>					
1350-800-8000-8003	1350R		\$6,000	\$6,000	Parks CFF Fund, Contingency Reserve

**TRANSFERS**

<b>FROM</b>					
6600-700-7000-7135	6600G		\$6,000	\$6,000	Transfer to Parks CFF Fund
<b>TO</b>					
1350-700-7000-9660			\$6,000	\$6,000	Transfer from Golf Fund

**COMMENTS/JUSTIFICATION**

In 1998, expenses for the golf cart shed were taken from this fund, but should have been taken from the golf fund. This was found when Maze and Associates performed a performance review of the CFF funds. Because the golf course is not eligible for CFF, this is not an eligible expense.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		4/11/05
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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Jana Coons/Tracie Madison  
 Telephone No.: 1-5855  
 Department: Public Works

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

Fund Title: Storm Drain

FY: 04-05  
 Transfer No. \_\_\_\_\_

### April Monthly Adjustments

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

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

#### APPROPRIATIONS

<u>FROM</u> 05-6280-800-8000-8003	6280R		(\$12,000)	(\$12,000)	Storm Drain Contingency
<u>TO</u> 05-6280-480-5314-0235	5314C	\$222,885	\$12,000	\$234,885	Professional Svc

#### COMMENTS/JUSTIFICATION

On 4/4/05 an appropriation transfer was completed to move \$62,000 from identified operational savings, to the Storm Drain Reserves to be used toward the NPDES Permit. Only \$50,000 was needed toward the permit the other \$12,000 was to be used in the Operational Organization - Storm Drain Administration (5314) to complete existing contracts such as Godbe and Larry Walker and Assoc.  
 This adjustment is to move the \$12,000 from the reserves back into operational org 5314

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: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: Fire CFF

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

### April Monthly Adjustment

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

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

#### APPROPRIATIONS

<u>FROM</u> 05-1320-800-8000-8003	1320R	(\$500,000)	(\$50,579)	(\$550,579)	Transfer to begin payment of loan
<u>TO</u> 05-1300-800-8000-8003	1300R	(\$490,763)	\$50,579	(\$440,184)	Transfer to begin repayment of loan

#### TRANSFERS BETWEEN FUNDS

<u>FROM</u> 05-1320-701-7001-7130	M174L		\$50,579	\$50,579	Repayment of M174 Loan
<u>TO</u> 05-1300-701-7001-9132			\$50,579	\$50,579	Repayment of M174 Loan

#### COMMENTS/JUSTIFICATION

On April 6, 2004 Council approved an loan from fund 1300 to 1320 for the completion of Fire Station 11 (M174) At that time, an ammortization schedule was set up, but no transfer was put in place to allow the payment to be made. Payments are set to begin in FY05, this adjustment allows the transfer to be put in the Financial System

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)	<i>Judith Ray</i>	4-12-05
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

REQUEST FOR BUDGET ADJUSTMENT

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

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

Fund Title: Special Fund for Capital Outlay

FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

APPROPRIATIONS

<u>FROM</u> 05-1300-800-8000-8003	1300R	(\$440,184)	(\$50,579)	(\$490,763)	Special Fund Capital Contingency
<u>TO</u> 05-0100-800-8000-8003	0100R		\$50,579	\$50,579	General Fund Contingency

TRANSFERS BETWEEN FUNDS

<u>FROM</u> 05-1300-700-7000-7010	1300G		\$50,579	\$50,579	General Transfer to the GF
<u>TO</u> 05-0100-700-7000-9130			\$50,579	\$50,579	General Transfer to the GF

COMMENTS/JUSTIFICATION

In June 2004 Council approved a loan from the Special Fund for Capital Outlay in the amount of \$238,495 for the completion of Fire Station 11 located in the Fire CFF Fund. This resulted in a reduction to another Fire Project N412 (Fire Station 1 Retrofit) The repayment of that loan is to fund 1300. Since then it has been determined that the work to retrofit Fire Station 1 exceeds the existing funds, therefore that project was closed and the available funds returned to the General Fund for reallocation. This transfer will allow the loan payback to also return to the General Fund over the next 5 years where the funds originated from.

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)	<i>Judith Day</i>	4-12-05
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

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

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

FY: 04-05

Fund Title: Special Fund for Capital Outlay

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

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

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

**APPROPRIATIONS**

<u>FROM</u>					
05-1300-800-8000-8003	1300R	\$9,237	(\$635,307)	(\$626,070)	Special Fund for Capital Contingency
<u>TO</u>					
05-0100-800-8000-8003	0100R		\$635,307	\$635,307	General Fund Contingency

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
MY-1300-700-N412-7010	N412G		\$635,307	\$635,307	Transfer back of funds
<u>TO</u>					
MY-0100-700-N412-9130			\$635,307	\$635,307	Transfer back of funds

**COMMENTS/JUSTIFICATION**

This adjustment is return the funds to return the funds that the General Fund sent to the Station 1 Rehab/Retro Project. This project, 1300-180-N412 Station 1 Rehab has been closed. It was determined the project could not be completed at current funding levels. All funds will return to the General Fund where they can be reallocated.

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)	<i>Judith Day</i>	4-12-05
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: RDA Master Plan

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<u>FROM</u>					
MY-1300-180-N412-6040	N412	\$386,505	(\$77,254)	\$309,251	Station 1 Retrofit
05-1300-800-8000-8003	1300R		(\$77,254)	(\$77,254)	Special Fund Capital Contingency
05-9080-800-8000-8003	9080R		(\$77,254)	(\$77,254)	RDA Master Plan Contingency
<u>TO</u>					
05-1300-800-8000-8003	1300R		\$77,254	\$77,254	Special Fund Capital Contingency
05-9080-800-8000-8003	9080R		\$77,254	\$77,254	RDA Master Plan Contingency
MY-9080-140-K871-6010	K871		\$77,254	\$77,254	Update EIR

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
MY-1300-700-K871-7980	K871		\$77,254	\$77,254	Transfer to RDA Master Plan
<u>TO</u>					
MY-9080-700-K871-9130			\$77,254	\$77,254	Transfer to RDA Master Plan

**COMMENTS/JUSTIFICATION**

July 6, 2004 the RDA approved (10-2004) a complete update to the RDA Master Plan and the EIR for the Redevelopment project Area. An additional item was added to the overall Master Plan called "Safety Campuss Concept Master Plan" the funding was to be provided by the Fire Dept Project N412 Fire Station 1 Retrofit. It has since been determined that there is not enough funds available to complete project N412 and the project was closed and the funds returned to the General Fund. However the encumbrance remains in fund 1300. This adjustment will move the encumbrance and budget to 9080-140-K871 to allow the RDA to continue with their Master Plan and EIR updates

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)	<i>Judith Day</i>	4-12-05
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

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

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

Fund Title: LTF

FY: 04-05  
 Transfer No. \_\_\_\_\_

### April Monthly Adjustment

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

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

#### APPROPRIATIONS

<u>FROM</u> 05-0520-800-8000-8003	0520R		(\$80,000)	(\$80,000)	LTF Non-Motorized Contingency
<u>TO</u> 05-0700-800-8000-8003	0700R	\$1,079,846	\$80,000	\$1,159,846	Gas Tax Contingency

#### TRANSFERS BETWEEN FUNDS

<u>FROM</u> 05-0520-700-4724-7070	0520G	\$80,000	\$80,000	\$160,000	Transfer to Curbs, Sidewalks, Gutters
<u>TO</u> 05-0700-700-4724-9052		\$80,000	\$80,000	\$160,000	Transfer to Curbs, Sidewalks, Gutters

#### COMMENTS/JUSTIFICATION

This adjustment is to increase the transfer from the Non-Motorized Local Transportation Fund from \$80,000 to \$160,000. The LTF claim submitted to StanCog. for FY04-05 was for \$160,000 this adjustment would allow the budget to match the claim.

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. 2005-234**

**A RESOLUTION APPOINTING JASON K. HOLLINGSWORTH TO THE  
COMMUNITY QUALITIES FORUM**

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

WHEREAS, Councilmember Will O'Bryant has recommended JASON K. HOLLINGSWORTH as his selection to the Community Qualities Forum.

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

SECTION 1. JASON K. HOLLINGSWORTH is hereby appointed to the Community Qualities Forum 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 Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:   
JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-235**

**A RESOLUTION DIRECTING THE CITY CLERK TO CONDUCT  
THE DECEMBER 13, 2005 RUN-OFF ELECTION, IF NEEDED, BY MAIL**

WHEREAS, in the event that no candidate is elected by a majority in the November 8, 2005 election, the two candidates receiving the most votes will run against one another in a December run-off election; and

WHEREAS, the City Council has chosen the City Clerk to conduct the City's run-off election in December 2005, and

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 6, 2005, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City entered into a contract with Martin & Chapman for election services, for a cost of \$105,059.37, for election services to assist with the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, the City Council must indicate its intention to conduct the December 13, 2005 run-off election, if needed, by mail.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that if a run-off election is required as a result of the Regular Municipal Election to be held on November 8, 2005, said run-off election shall be held by mail and scheduled on December 13, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-236**

**A RESOLUTION APPROVING A CONTRACT WITH MARTIN &  
CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES  
TO CONDUCT THE DECMEBER 13, 2005 CITY COUNCIL RUN-OFF  
ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF \$105,059.57  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, at the April 25, 2005 Finance Committee Meeting, the Finance Committee recommended the City Clerk conduct the December 13, 2005 run-off election and recommended that a contract be authorized with Martin & Chapman for election services; and

WHEREAS, Martin & Chapman has agreed to provide the services outlined in Exhibit "A" attached hereto and incorporated herein by reference in the amount of \$105,059.57; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of contract to Martin & Chapman for professional services to conduct the December 13, 2005 run-off election using an all mail ballot.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-237**

**A RESOLUTION ADOPTING RUN-OFF ELECTION PROCEDURES AND  
DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN  
CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE  
REGULAR MUNICIPAL ELECTION IN NOVEMBER, 2005, AND DIRECTING  
THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE  
EVENT THAT THE DECEMBER, 2005 RUN-OFF ELECTION "FAILS"**

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 13, 2005 run-off election, the Finance Committee at its April 25, 2005 meeting recommended to the City Council that the City Clerk conduct the run-off; and

WHEREAS, the City Council adopted Resolution No. 2005-235 directing the City Clerk to conduct the December 13, 2005 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2005 run-off election; and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December run-off election in the event one is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the run-off election procedures set forth in the staff report to the City Council dated May 10, 2005, are hereby adopted and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election, and further, the City Attorney is directed to file the litigation described in said staff report in the event the December, 2005, run-off election "fails." (A copy of the staff report is attached as Exhibit "A" and incorporated herein by reference.)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**CITY OF MODESTO**  
**COUNCIL AGENDA REPORT**

**COUNCIL MEETING:**  
**Date of Meeting**

5/10/05

*Date: 5/2/05*

TO: Mayor and City Council  
FROM: Jean Zahr, City Clerk  
SUBJECT: December 2005 Run-Off Election  
CONTACT: Jean Zahr, [jzahr@modestogov.com](mailto:jzahr@modestogov.com), (209) 577-5396

**RECOMMENDED COUNCIL ACTION**

1. Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2005, and directing the City Attorney to file an action in Superior Court to do the following in the event that the December 2005, run-off election "fails;" (1) obtain an order prohibiting the City Clerk from canvassing the December 13, 2005 run-off election, (2) declare the December 13, 2005, run-off election nullified, and (3) request the Court to retain jurisdiction until the run-off election results are certified.
2. Resolution calling for a special election to be held on January 31, 2006 for the purpose of holding a run-off election that might otherwise have been held on December 13, 2005 in the event the December 13, 2005, run-off election "fails."

**BACKGROUND**

The City Council has directed the City Clerk to conduct the December 13, 2005 run-off election.

The County Clerk-Recorder will be conducting the November 8, 2005 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:

### SELECTION OF RUN-OFF CANDIDATES:

- Establish November 18, 2005, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.
- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.
- Prior to November 18, 2005, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2005-\_\_\_\_\_
- In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:
  - ◆ If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have “failed” and the City Attorney shall proceed with the litigation outlined below.
  - ◆ If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have “failed,” and the City Attorney shall proceed with the litigation outlined below.

### LITIGATION:

- In the event said run-off is deemed to have “failed” pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:
  - ◆ Obtain an order prohibiting the City Clerk from canvassing the December 13, 2005, run-off election.
  - ◆ Declare the December 13, 2005, run-off election nullified.

- ◆ Request the Court to retain jurisdiction until the run-off election results are certified

### **DECISION TREE:**

- Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached "Decision Tree."
- Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 31, 2006. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In order to avoid allegations of conflict of interest, it is recommended that Councilmembers Jackman, Keating and O'Bryant abstain from voting on this matter. The precedent for this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the "failure" of the 2001 run-off election, and Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election procedures.

### **FISCAL IMPACT**

If a special run-off election is required it is estimated that an additional \$200,000 will be needed to cover costs.

### **STEPS FOLLOWING APPROVAL**

These procedures will be forwarded to Martin & Chapman and the County Clerk-Recorder.

Prepared and  
Submitted By:

  
\_\_\_\_\_  
Jean Zahr, City Clerk, [jzahr@modestogov.com](mailto:jzahr@modestogov.com); 577-5396

cc: George Britton, City Manager  
Mike Milich, City Attorney

Attachments: Resolution Adopting Run-Off Procedures  
Resolution Calling for a Special Election  
Decision Tree

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-238**

**A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON  
JANUARY 31, 2006 FOR THE PURPOSE OF HOLDING A RUN-OFF  
ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR  
DECEMBER 13, 2005**

WHEREAS, in the event the December run-off election “fails,” it will be necessary to reschedule the run-off election; and

WHEREAS, the City Council determines that the run-off election should be held on the 5<sup>th</sup> Tuesday in January 2006.

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

1. That the City Council orders the City Clerk to submit the run-off election previously scheduled for December 13, 2005, to the voters on January 31, 2006.
2. The City Council hereby requests Martin & Chapman to provide election services for the purpose of holding a run-off election that was previously scheduled for December 13, 2005, to elect members of Council for Chairs 2, 4 and 5.
3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
4. This resolution shall only be effective in the event incorrect names for the run-off ballots were chosen; and, the Superior Court issues an Order prohibiting the City Clerk from canvassing the December 13, 2005, run-off election; and, the Superior Court issues an Order nullifying the December 13, 2005, run-off election.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-239**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF FIVE  
(5) PRE-CAST CEMENT VAULTS FOR THE PUBLIC WORKS DEPARTMENT,  
WATER DIVISION, FOR AN ESTIMATED COST OF \$66,000**

WHEREAS, in 1995, the Del Este Water Company and the City of Modesto partnered with the Modesto Irrigation District to introduce treated surface water from the Modesto Reservoir into the Modesto water systems, and

WHEREAS, this project was accomplished by constructing a very long transmission main with thirty-one (31) MID turnouts strategically located throughout the system, and

WHEREAS, once the Del Este Water Company and the City of Modesto water systems merged, the Public Works Department, Water Division began tying the two (2) systems together, using a mixture of well water and surface water, and

WHEREAS, the Water Division is currently faced with the large task of determining the best method of utilizing the water supplies that are available to the City, and

WHEREAS, currently there is no control mechanism in place to account for the distribution of MID water, and

WHEREAS, by installing pressure-flow control valves on MID turnouts, the Water Division can place water where it is needed the most, and

WHEREAS, by the Resolution No. 2005-240, adopted on May 10, 2005, the Purchasing Supervisor has requested authorization to solicit Request for Bids to purchase

five (5) pressure-flow control valves to be installed on the east side of town, next to the MID terminal reservoir tanks, and

WHEREAS, the purchase of these control valves will require the purchase of five (5) new pre-cast vaults to house them in, and

WHEREAS, the completion of this project will allow the Water Division the ability to control the placement of water from this system for the City, and

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

WHEREAS, the issuance of a formal Request for Bid for the purchase of five (5) pre-cast cement vaults 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 five (5) pre-cast cement vaults, 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 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-240**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF FIVE  
(5) PRESSURE-FLOW CONTROL VALVES FOR THE PUBLIC WORKS  
DEPARTMENT, WATER DIVISION, FOR AN ESTIMATED COST OF \$134,000**

WHEREAS, in 1995, the Del Este Water Company and the City of Modesto partnered with the Modesto Irrigation District to introduce treated surface water from the Modesto Reservoir into the Modesto water systems, and

WHEREAS, this project was accomplished by constructing a very long transmission main with thirty-one (31) MID turnouts strategically located throughout the system, and

WHEREAS, once the Del Este Water Company and the City of Modesto water systems merged, the Public Works Department, Water Division began tying the two (2) systems together, using a mixture of well water and surface water, and

WHEREAS, the Water Division is currently faced with the large task of determining the best method of utilizing the water supplies that are available to the City, and

WHEREAS, currently there is no control mechanism in place to account for the distribution of MID water, and

WHEREAS, by installing pressure-flow control valves on MID turnouts, the Water Division can place water where it is needed the most, and

WHEREAS, the Water Division is recommending that five (5) pressure-flow control valves be installed on the east side of town, next to the MID terminal reservoir tanks, and

WHEREAS, the completion of this project will allow the Water Division the ability to control the placement of water from this system for the City, and

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

WHEREAS, the issuance of a formal Request for Bid for the purchase of five (5) pressure-flow control valves 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 five (5) pressure-flow control valves, 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 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-241**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 ANNUAL BUDGET**

WHEREAS, the Joints Power Authority (JPA) constructed Tenth Street Place and the adjacent parking garage, and

WHEREAS, progress payments have been made to the JPA from all parties throughout the construction and it has been determined that the final payment due from the City is \$934,914, and

WHEREAS, capital project #J219 was inadvertently closed and will need to be reopened and a transfer made in the amount of \$320,813 in conjunction with the existing \$614,010 to make a total to make a final payment of \$934,914 and close out the project,

WHEREAS, the close out and completion of the project will also require a one-time adjustment of approximately \$800,000 to the General Fund transfer for the Tenth Street Place debt service,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves reopening of capital project #J219 and authorizes a total budget adjustment in the amount of \$934,914 to fund the final payment for Tenth Street Place construction in said amount, and also approves the approximate \$800,000 General Fund transfer adjustment for the FY 04/05 Tenth Street Place debt service.

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 May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-242**

**A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION IN THE  
AMOUNT OF \$295,993 TO THE OFFICE OF COMMUNITY ORIENTED  
POLICING (COPS) FOR THE 2005 TECHNOLOGY GRANT PROGRAM AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID APPLICATION**

WHEREAS, the City of Modesto Police Department can make application in the amount of \$295,993 to the Office of Community Oriented Policing for a Technology Grant Program, and

WHEREAS, the program is of 12-month duration, and it allows for the procurement of equipment and technology to enhance law enforcement, and

WHEREAS, the Police Department, lead by the Department of Information and Technology wishes to submit an application for new public safety systems for mobile data computing, automated vehicle location and automated field reporting, and

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

WHEREAS, the total grant project will be \$295,993, with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Technology Grant Program, administered by the COPS Office for acquisition of new public safety systems for mobile data computing, automated vehicle location and automated field reporting.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-243**

**A RESOLUTION DECLARING THE CITY-OWNED PROPERTY (APN # 106-006-002) KNOWN AS THE 17<sup>TH</sup> AND G STREETS PARK AS SURPLUS PROPERTY AND AUTHORIZE STAFF TO PROCEED WITH AN APPRAISAL AND CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY**

WHEREAS, the park site at 17<sup>th</sup> and G Streets was purchased in 1906 by the City of Modesto utilizing general fund money, and

WHEREAS, City records indicate that it was used as a water conveyance and well site, and then landscaped and utilized as a park site previous to 1924, and

WHEREAS, since that time, the site has been maintained by the Parks Division and open to the public as a public park, and

WHEREAS, the well located on the site is still in use, and a water tower constructed on the site in 1915 was utilized until being decommissioned in 1995 due to seismic structural concerns, and

WHEREAS, over the past 15 years, the site has been an area of safety problems for the City of Modesto and its citizens; the Modesto Police Department has made numerous arrests, as well as multiple and continuous citations for disorderly conduct, and

WHEREAS, due to the reduction of maintenance funding for park facilities, the park has fallen into a state of disrepair and is no longer productive as a public facility; a large investment of local funds would be required to renovate it, and

WHEREAS, it is also located in the redevelopment area of downtown, giving it the high value potential to become a benefit to the community in the form of housing or some mixed-use facility, and

WHEREAS, the Finance Committee met on March 21, 2005, and supported the recommendation to declare the property as surplus,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby declares the City-owned property (APN # 106-006-002) known as the 17<sup>th</sup> and G Streets Park as surplus property.

BE IT FURTHER RESOLVED that staff is hereby authorized to proceed with an appraisal and contract for real estate services for the sale of this property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-244**

**A RESOLUTION APPROVING A REQUEST FROM THE NEW HARVEST  
CHRISTIAN FELLOWSHIP FOR USE OF AMPLIFIED MUSIC AT MANCINI  
BOWL FOR A FREE CHRISTIAN CONCERT TO BE HELD ON AUGUST 20,  
2005**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from New Harvest Christian Fellowship, requesting use of amplified music at Mancini Bowl on Saturday, August 20, 2005, for a free Christian concert, 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 the request from the New Harvest Christian Fellowship for the use of amplified music at Mancini Bowl for a free Christian concert on August 20, 2005.

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 May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-245**

**A RESOLUTION APPROVING A REQUEST FROM THE VALLEY CONCERT  
BAND INC. FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A  
FREE BAND CONCERT TO BE HELD ON JULY 19, 2005**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from Valley Concert Band Inc., requesting use of amplified music at Mancini Bowl on Tuesday, July 19, 2005, for a free band concert, 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 the request from the Valley Concert Band Inc. for the use of amplified music at Mancini Bowl for a free band concert on July 19, 2005.

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 May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-246**

**A RESOLUTION APPROVING THE FINAL MAP OF THE KODIAK VILLAGE II SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH MERITAGE HOMES OF CALIFORNIA, A CALIFORNIA CORPORATION**

WHEREAS, MERITAGE HOMES OF CALIFORNIA, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.19 acres, known as the KODIAK VILLAGE II SUBDIVISION (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on March 5, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 19<sup>th</sup> day of April, 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 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 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-247**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE OAKCREST  
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, KB HOME NORTH BAY, INC., a California Corporation, is the subdivider of OAKCREST SUDIVISION (“SUBDIVISION”), and

WHEREAS, KB HOME NORTH BAY, INC., has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$1,189,941 and \$594,970.50, respectively, and

WHEREAS, KB HOME NORTH BAY, INC., has filed a warranty bond in the amount of \$118,994.10 to guarantee improvements in the Oakcrest 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 Oakcrest 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 \$1,189,941 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 \$594,970.50 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 improvements in the amount of \$118,994.10 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 10<sup>th</sup> day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-248**

**A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE "SISK ROAD CONSTRUCTION AND DRAINAGE IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$813,184.04 PER THE CONTRACT. TOTAL PROJECT COST IS \$2,670,411.86**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Sisk Road Construction and Drainage Improvements" has been completed by George Reed, Inc., in accordance with the contract agreement dated August 10, 2004,

NOW, THEREFORE, BE IT RESOLVED that the "Sisk Road Construction and Drainage Improvements" project be accepted 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 \$813,184.04, 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 10th day of May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-249**

**A RESOLUTION APPROVING A \$425,000 UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR THE RELOCATION OF ELECTRIC UTILITY POLES LOCATED ON FLOYD AVENUE BETWEEN OAKDALE ROAD AND ROSELLE AVENUE, AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto is desirous of widening Floyd Avenue between Oakdale Road and Roselle Avenue from two travel lanes to four travel lanes, and

WHEREAS, the widening of Floyd Avenue was contemplated in the Village One Facilities Master Plan Update, dated May 2003, and

WHEREAS, the Modesto Irrigation District (“MID”) owns electric utility poles that are within the recently acquired right-of-way along Floyd Avenue, and

WHEREAS, above-mentioned utility poles require relocation before Floyd Avenue can be widened to accommodate 4 travel lanes, and

WHEREAS, the Community Facilities District agrees to pay the cost associated with the relocation of the utility poles in an amount not to exceed \$425,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the Community Facilities District and the Modesto Irrigation District for the relocation of utility poles located on Floyd Avenue between Oakdale Road and Roselle Avenue is hereby approved.

BE IT FUTHER 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 10<sup>th</sup> day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-250**

**A RESOLUTION AUTHORIZING STAFF TO DEMOLISH THE FIRE-DAMAGED BUILDING AT 1029 9<sup>TH</sup> STREET (EVERETT & JONES RESTAURANT SITE) AND DEVELOP PLANS AND SPECIFICATIONS FOR CONSTRUCTION OF A PERMANENT PARKING LOT AT THE SITE**

WHEREAS, as part of the acquisition of land and buildings for the Downtown Transportation Center in the late 1980's, the City acquired the building at 1029 9<sup>th</sup> Street, and

WHEREAS, this building was converted from a railway express agency into a restaurant site in the 1970's, and

WHEREAS, after acquisition by the City, the building was leased to two private parties who continued the restaurant operation, and

WHEREAS, the long-term use of the property, as required by the funding source, must be used for transit purposes, and

WHEREAS, on February 23, 2003, Annie P. Jones and Robert S. Dudley, dba Everett & Jones Barbeque, entered into a lease with the City for this property, and

WHEREAS, the restaurant at 1029 9<sup>th</sup> Street burned on September 24, 2004 and has been boarded up and secured with fencing since that time, and

WHEREAS, City building officials have declared the building to be dangerous pursuant to the City's Building Code, and

WHEREAS, the cost to rebuild the building is estimated at approximately \$1.3 million and the cost to demolish the building has been estimated at \$18,000, and

WHEREAS, the City and the insurance company are involved in negotiations as to the estimated cost of reconstruction of the building, and

WHEREAS, the City will receive the “actual cash value” of the building which is the estimated cost of reconstruction, less depreciation, if the building is not rebuilt, and

WHEREAS, the City will receive the estimated cost of reconstructing the building in like kind and quality if the insurance settlement funds are dedicated towards the construction of another structure, regardless of the replacement building location or designated use, and

WHEREAS, representatives from the City Attorney’s Office, Community and Economic Development Department, Risk Management, and Public Works Department have recommended demolition of said burned building and construction of a permanent parking lot at the former restaurant site, and

WHEREAS, the cost of building a permanent parking lot with landscaping and standard parking lot curbs is estimated at \$74,000, and

WHEREAS, Organization 1681 has been established to account for revenues and expenses associated with demolition of said burned building and the construction of a parking lot at that location, and

WHEREAS, the City has received \$242,209 to date as partial payment on the insurance settlement and anticipates receiving payments totaling a minimum of \$600,000 in addition to said funds received to date, and

WHEREAS, revenue account 6510-165-B911-8119-02 (New Bus Maintenance Facility Project) has been designated to receive funds available after the building is demolished and the parking lot project is completed, and

WHEREAS, the City’s Landmark Preservation Commission voted unanimously that this site has “no intrinsic historic value” for the City and agreed with staff’s



recommendation to demolish the building, and

WHEREAS, the Council Economic Development Committee approved this recommendation at its February 7, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to demolish the building at 1029 9<sup>th</sup> Street.

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 May 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

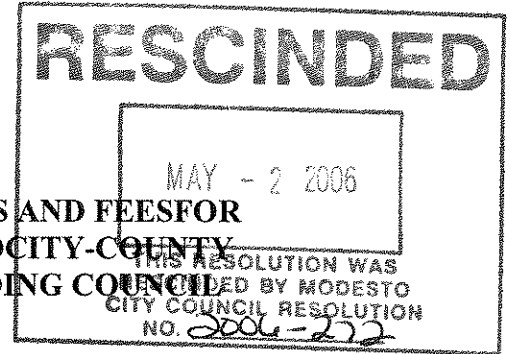
  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-252**

**A RESOLUTION ADJUSTING RENTAL CHARGES AND FEES FOR  
ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY  
AIRPORT/HARRY SHAM FIELD, AND RESCINDING COUNCIL  
RESOLUTION NO. 2004-262**



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

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

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of two and three-tenths percent (2.3%), and

WHEREAS, Modesto City Council Resolution No. 2004-262 establishes the current Airport Rental Charges and Fees and contains 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 2.3% rate increase at its meeting on March 16, 2005, and

WHEREAS, by an agenda report to the City Council from the Public Works Director dated April 12, 2005, City staff recommended a rate increase of 2.3% for aircraft hangars, office space, and tie-down rentals, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005 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:

(1)	T-Hangars	
	Hangar A	..... \$117/*\$144 unit per month
	End Units	..... \$136/*\$162 unit per month
	Hangar B	..... \$142/*\$168 unit per month
	End Units	..... \$176/*\$202 unit per month
	Hangar C	..... \$149/*\$177 unit per month
	End Units	..... \$181/*\$207 unit per month
	Hangar D	..... \$134/*\$160 unit per month
	End Units	..... \$159/*\$186 unit per month
	Hangar E	..... \$195 unit per month
	End Units	..... \$228 unit per month
	Hangar F	..... \$195 unit per month
	End Units	..... \$228 unit per month
	Hangar G	..... \$195 unit per month
	Hangar H	..... \$195 unit per month
	Hangar I	..... \$382 unit per month
	Hangar J	..... \$195 unit per month
	Hangar K	..... \$219 unit per month
	End Unit	..... \$328 unit per month
	Storage	..... \$78 per month

Portable Land Rent ..... \$57 unit per month

\* T-Hangars A – D with electrical service

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.

(b) Storage Hangars:

Hangar No. 1 .... \$1,431.00 – (Sheriff Aero Squadron lease rate is discounted to \$972.00 per month)

Hangar No. 2 .... \$1,194.00 per month

Hangar No. 3 .... \$629.00 per month

Hangar No. 4 .... \$1,070.00 per month

Hangar No. 5 .... \$1065.00 per month

Hangar No. 6 .... \$624.00 per month

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.) \$36.00 per month

(b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) \$57.00 per month

(c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) \$.042 per square foot per month

(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft \$6.00 per day

- (e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.)  
\$8.00 per day
- (f) Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.)  
\$12.00 per day
- (g) Jets – \$12.00 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 ..... \$.79 per square foot
- (b) Office Building No. 1 ..... \$.79 per square foot
- (c) Office Building No. 2 ..... \$.79 per square foot
- (d) Hangar Office Space ..... \$.356 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, 2005.

SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2004-262.

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 May 2005 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-252A**

**A RESOLUTION ESTABLISHING A NEW NON-REFUNDABLE FEE FOR  
ISSUANCE OF AIRPORT KEYS AND AUTHORIZING REIMBURSEMENT BY  
KEYHOLDERS FOR EXPENSES RELATED TO LOST OR UNRETURNED  
KEYS ISSUED FOR USE AT THE MODESTO CITY-COUNTY  
AIRPORT/HARRY SHAM FIELD**

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

WHEREAS, the current practice of issuing airport keys requires setting up a refundable trust account for each key issued, which is refunded upon return of the key, and

WHEREAS, the process of creating and managing trust accounts for small amounts is labor intensive, necessitating a layer of bookkeeping that is not cost-effective or practical for small, long-term fee management, and

WHEREAS, lost or unreturned keys necessitate lock changes which are billed to the Airport by the City's Building Maintenance Division, and

WHEREAS, the City of Modesto Fee Guide does not list a charge for collecting a trust deposit or a "cost-recovery" fee for maintenance of keys and locks at Modesto City-County Airport, and

WHEREAS, the Modesto City-County Airport Advisory Committee endorsed establishing a non-refundable fee for issuance of Airport keys and charging keyholders for expenses related to lost or unreturned keys at its meeting on March 16, 2005, and

WHEREAS, by an agenda report to the City Council from the Public Works Director dated April 12, 2005, City staff recommended establishing a non-refundable fee

for issuance of Airport keys and charging keyholders for expenses related to lost or unreturned keys, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005 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 establish new fees for issuance and maintenance of airport keys and locks at the Modesto City-County Airport/Harry Sham Field,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a non-refundable fee for issuance of Airport keys, and authorizes reimbursement by keyholders for expenses related to lost or unreturned keys issued for use at the Modesto City-County Airport/Harry Sham Field.

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 Modesto 2005 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-253**

**A RESOLUTION APPROVING THE GUIDELINES FOR SMALL-LOT SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS**

WHEREAS, Urban Area General Plan Goal E seeks to provide and maintain attractive residential neighborhoods with a variety of dwelling types and prices affordable to all segments of the population, and

WHEREAS, Urban Area General Plan Goal I.E.5 promotes equal opportunity for all residents to reside in the housing of their choice, and

WHEREAS, Urban Area General Plan Policy II.B.1.a requires sufficient land be made available to support future expansion of the City, and

WHEREAS, Urban Area General Plan Policy III.B.1 recommends residential density of 7.5 dwelling units per gross acre, and

WHEREAS, new residential development in the City is typically occurring at between four and five dwelling units per gross acre, and

WHEREAS, allowing residential development to occur at increased density improves the efficiency of land consumption and improves the sufficiency of the existing land supply for City expansion, and

WHEREAS, Government Code Section 65850, et. seq. permits Cities and Counties to adopt ordinances that regulate the use of buildings, structures, and land, and

WHEREAS, Title 10 of the Modesto Municipal Code establishes regulations for the use of land and buildings and the purpose of Article 17, Planned Development Zone (P-D), is to encourage creative and efficient land uses, encourage mixed or multiple use

projects, permit variations from the density, height and other standards in the various zones, and permit development based on a high standard of performance and design, and

WHEREAS, the proposed “Guidelines for Small-Lot Single-Family Residential Developments” was prepared in response to development proposals for single-family detached residences on lots of less than 5,000 square feet in order to identify problems that arise from development of small-lot developments and suggest solutions to those problems to assist in the design of small-lot single-family residential developments that will help achieve the City’s housing goals and policies, and

WHEREAS, the proposed “Guidelines for Small-Lot Single-Family Residential Developments” is intended to be implemented through the establishment of Planned Development Zones, and

WHEREAS, a public hearing was held by the Planning Commission at 7:00 p.m. on March 21, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission recommended by its Resolution No. 2005-14, that the City Council adopt the proposed “Guidelines for Small-Lot Single-Family Residential Developments”, and

WHEREAS, a public hearing was held by the City Council of the City of Modesto at 5:30 p.m. on May 10, 2005, in the Chambers, Tenth Street Place, 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 City Council of the City of

Modesto that it hereby finds and determines as follows:

1. The "Guidelines for Small-Lot Single-Family Residential Developments" is consistent with the General Plan, because it allows the development of dwelling types not currently offered or in short supply; improves efficient use of land and extends the sufficiency of the existing land supply; encourages creative and efficient land uses; permits variations from the density, height, and other standards in the various zones; and provides guidance to the development community for high standards of performance and design.
2. The "Guidelines for Small-Lot Single-Family Residential Developments" is a policy document and therefore is not a project in accordance with Section 15378(b)(2) of CEQA Guidelines.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the "Guidelines for Small-Lot Single-Family Residential Developments," a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

Noes: Councilmembers: None

Absent: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**

**GUIDELINES FOR**  
**SMALL-LOT SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS**

**Included in the City Council Packet**

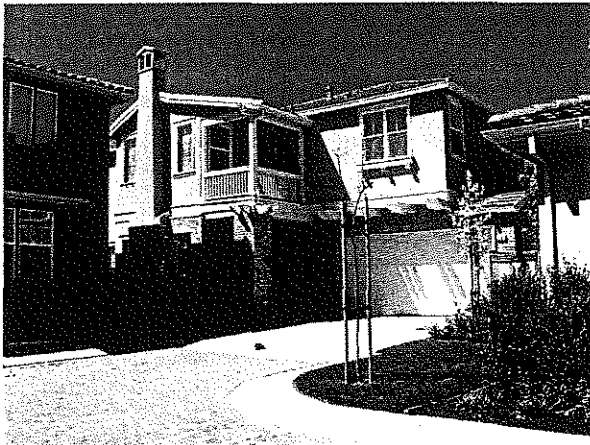




Draft Copy

# Guidelines for Small-Lot Single-Family Residential Developments

April 18, 2005



**City of Modesto**  
Community & Economic Development Department  
Planning Division  
1010 Tenth Street, Suite 3300  
Modesto, CA 95353  
Phone: 209-577-5267 Fax: 209-491-5798

## Acknowledgements

### Modesto City Council

Mayor Jim Ridenour  
Vice Mayor Denny Jackman  
Council Member Bob Dunbar  
Council Member Brad Hawn  
Council Member Janice Keating  
Council Member Garrad Marsh  
Council Member Will O'Bryant

### Modesto Planning Commission

Chair Alita Roberts  
Vice Chair Kent Newswander  
Commissioner Mary Arias  
Commissioner R. Tom Berglund  
Commissioner David Cogdill, Jr.  
Commissioner Kristen Olsen  
Commissioner John Sanders

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### City staff with primary oversight of the Design Guidelines:

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Photograph Credits:  
City of Modesto Staff; Dahlin Group, Inc.



# Small Lot Site Development Guidelines

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# Guidelines for Small Lot Single-Family Residential Developments

## **PURPOSE**

The purpose of the Guidelines for Small Lot Single-Family Residential Developments is to provide a clear set of design policies to project sponsors such as developers, property owners, architects and designers. These are the primary design issues that the planning staff, City Council and Planning Commission will use to evaluate project proposals. The goal is to expedite the planning review process by clearly stating the City's desires for quality design of small lot residential projects. Safety, livability, and long-term viability will guide the evaluation of small lot developments.

Small-lot development meets the needs of people who do not have the time or ability to maintain larger lots and houses. Properly located and with a well-designed street network, higher-density development reduces distances between homes and shopping, which can reduce driving and support increased transit use, and can help meet some of the goals of the General Plan.

## **OBJECTIVES**

The Guidelines are intended to address the following objectives:

- Promote high quality development.
- Create residential neighborhoods that provide interest and are visually pleasing.
- Small-lot single-family projects that feature a variety of lot types, home sizes, housing types, designs, and building materials.
- Small-lot single-family developments that include interconnected, short blocks that diffuse traffic and provide easy, direct routes for pedestrians, bicyclists, and drivers around the neighborhood.
- Small-lot single-family developments that emphasize pedestrian-oriented streetscapes, not dominated by garages, that includes street systems designed for pedestrians and bicyclists as well as for automobile use.
- Small-lot single-family projects that are integrated and compatible with existing neighborhoods adjacent to them.

## **INTENT**

The following design guidelines are to be used to assist developers, project applicants and City staff in producing a quality Planned Development. City staff and Planning Commissioners will use these Guidelines as a framework for evaluating development proposals and for commenting on the design aspects of proposed projects.

The Guidelines will be used to augment and reinforce the Planned Development zone, Modesto Municipal Code Title 10, Article 17. The small lot guidelines are general and may be interpreted with some flexibility in their application to specific projects. Variations may be considered for projects with special design characteristics during the City's development review process to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity on the part of project designers. The Guidelines are also intended to ensure that new development is compatible with existing neighborhoods.

## **APPLICABILITY**

The Guidelines for Small Lot Single Family Residential Developments apply to single-family detached residential development proposals. Small lot development can only occur in Specific Plan areas and in Planned Development zones; the minimum lot size in the R-1 zone is 5,000 square feet, therefore, these guidelines would not apply.

There is a minimum practical lot size that will accommodate one detached house and still meet the intent of these guidelines for small lot development. Rather than place a limit on lot size, these guidelines allow the project designer maximum flexibility to develop a quality project that meets the intent of the guidelines.

Lots will be evaluated in two size ranges: less than 3,000 square feet and between 3,000 and 5,000 square feet (Table 1). Lot frontage will suggest other siting criteria.

## **PLANNING COMMISSION AND CITY COUNCIL**

A Planned Development is subject to review and approval by the Planning Commission and the City Council. Projects are assessed for conformance with the Guidelines by staff prior to consideration by these bodies. The Planning Commission shall hear and make recommendations on Planned Development applications to the City Council. A Planned Development requires final review and approval by the City Council (Title 10, Article 17, Modesto Municipal Code).

## **DISCRETIONARY DECISION MAKING**

Every project is unique and requires a review on a case-by-case basis. This process depends upon the exercise of discretion. While some Guidelines include quantitative standards, some require qualitative interpretation. The City has the latitude to interpret the Guidelines so long as proposed projects meet the Guidelines' intent.

## **OTHER APPLICABLE REGULATIONS**

The Guidelines primarily address architectural and site design elements. In designing projects, designers must also reference other codes, standards and policies in effect, such as the City of Modesto Standard Specifications, Uniform Building/Fire Code, City of Modesto General Plan, etc.

## GUIDELINES

### I. Small Lot Single-Family Detached Houses

Conventional definitions of setbacks apply to most housing types, but not to all. Courthomes are a type of housing where houses on individual lots are arranged around a common driveway that takes access from a street. Because these houses have an unusual relationship to each other and to the street, Section II addresses courthomes specifically.

#### **A. Relationship to Existing Neighborhoods**

New small lot residential projects should be integrated with the existing neighborhoods adjacent to them. Designs should avoid the separation caused by high, solid fencing and walls, or blank walls of buildings.

Transitions between existing and new projects should be gradual. The height and mass of new projects should not create abrupt changes from those of existing buildings. Site setbacks should continue the prevailing setback patterns of adjacent buildings.

The perimeter areas of new projects should be planned to avoid disturbing existing adjacent residential uses. The protection of privacy of adjacent residents and minimization of environmental intrusions should be a major consideration in the design of new projects.

Where existing neighborhoods have architectural distinction and/or established functional or landscape patterns, new development should incorporate characteristics of the surroundings so that there is no disruption of the streetscape.

#### **B. Setbacks/Open Space**

**Setbacks:** The front setback establishes a relationship between the house and the surrounding neighborhood. If the house is too close, indoor privacy can be compromised. If the house is too far back, people inside the house cannot observe activity on the street. Additionally, a larger front yard setback leaves a smaller private rear yard. Each group of three adjacent houses should contain at least one house whose front setback to the living area differs from those of its neighbors by a minimum of feet (Fig. 1).



An example of single-family homes on small lots.



Poor transition: an older single-family ranch house surrounded by much larger two-story Mediterranean-style homes, causing architectural disparity as well as loss of privacy for the older home.

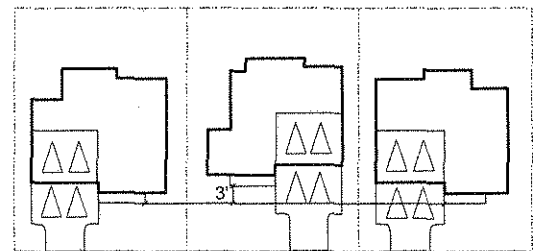


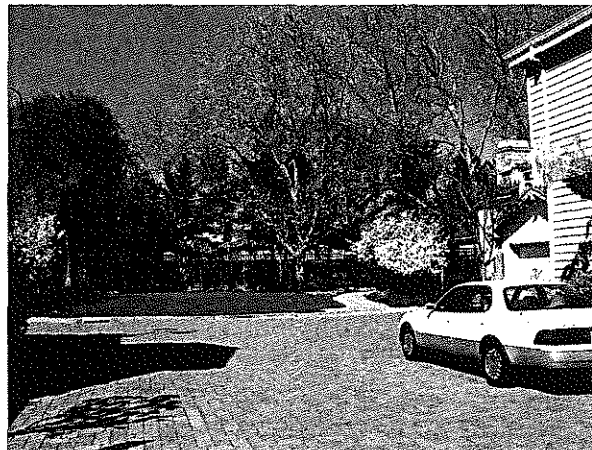
Fig. 1: Varied Front Setbacks

The side setback is primarily utilitarian. However, living areas of the house usually have windows that open into the side yard. Normal activity in the side yard, although limited, tends to be irritating because the noise is concentrated in a small space and can be loud and irregular, such as moving trash cans or using storage sheds.

The rear yard is where most outdoor activity around the house occurs. The rear yard is where people typically expect to have privacy outdoors and is where children play and entertaining happens. These activities are expected and noisy, but the noise can be considered intrusive by neighbors; residents can feel as if their outdoor or indoor privacy is being invaded by rear-yard neighbors. Adequate space is necessary for residents to enjoy their yards while providing a sense of privacy.

*Private open space*, typically in the rear yard, provides a place for children to play and to entertain friends. It must be large enough to allow these activities while maintaining some sense of privacy on both sides of the fence. The design of private yards is of greater importance than in larger lots, given that most personal and limited outdoor area will be the private yard or courtyard. Model homes should display a variety of fencing and landscape design concepts including porches, patios, walkways, covered trellises, screens, and garden walls. Private open space can occur in the form of a rear yard, patio, balcony, and/or deck. Private open spaces should be contiguous to the units they serve, screened from view, and have usable configurations.

*Common open space:* Common open space is required for developments of 15 units or greater; the minimum size and dimensions of common open space is prescribed in Table 1. Common open space should be centrally located so that it is a focus for the neighborhood and must be easily viewed from the street and homes for informal surveillance and security (Fig. 2). Common open space must be usable, and only landscaping that enhances its utility is permitted. In addition to lawn area, common open space should contain up to 15% of the open space area dedicated to decorative landscaping. Open space elements include play equipment, and seating and tables in the larger play areas. Tot lots and parks should be designed to facilitate use by a number of different ages or activity groups concurrently,



Common open space should be easily viewed from homes and the street for informal surveillance and security.



Common open space should be centrally located to be shared by the neighborhood.

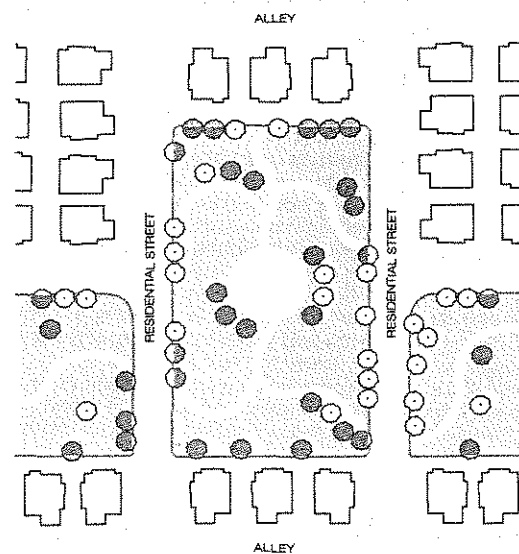


Fig. 2: Common open space that is centrally located to the development, and easily accessed by residents.

such as for small gatherings and may include small barbeques and ample seating and tables. A reduction in common open space may be considered if the project is immediately adjacent to a public park. Where developments are very near or adjacent to a public park or trail, direct pedestrian access to the public park or trail is required. The requirements set forth for common open space will not alleviate the requirement for CFF and/or CFD fees for park development and maintenance; all current park fees will remain in effect. Common open space landscape design must be approved by a designated representative of the Parks, Recreation and Neighborhoods Department.

Table 1 displays the various setback and open space provisions for lots ranging in size from 3,000 to 5,000 square feet and those below 3,000 square feet. Variations to the following setbacks may be considered for projects with special design characteristics to achieve the highest level of design quality as noted above.

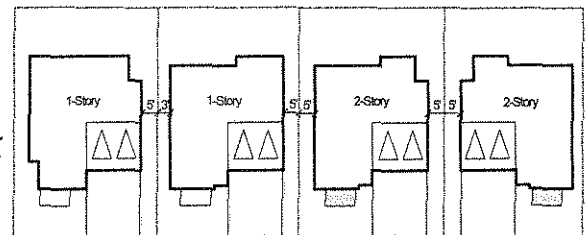
<b>Table 1: Setbacks and Open Space (in feet, measured from property line)</b>		
Lot Size	<3,000 sq. ft.	3,000 – 5,000 sq. ft.
<b>FRONT SETBACKS (a)</b>		
Living (1 <sup>st</sup> floor) (vary front setback by 3' as noted above)	12 minimum	12 minimum
Living Area (2 <sup>nd</sup> floor)	15	15
Porches	10	10
Attached Garage (b) (entry/non-entry side)	20/15	20/15
<b>REAR SETBACKS *</b>		
Living Area	10	15
Attached Garage (no alley/alley access) (c)	10/4	10/4
Detached Garage (no alley/alley access) (c)	5/4	5/4
Patio Covers (d)	7	7
<b>SIDE SETBACKS * (a)(g)(h)(i)</b>		
Living Area first floor (interior side) (e)(f)	5 one side, 3 other side (g) or 10/0	5 one side, 3 other side (g) or 10/0
Living Area second floor (interior side)	5	5
Living Area (corner side) (e)	15	15
Detached Garage (Int. Side)	0	0
Attached/Detached Garages (Corner Side) entry side/non-entry side	20/10	20/10
<b>PRIVATE OPEN SPACE</b>		
Minimum Area (sq. ft.) per unit	300	500
Minimum Dimension	15	15
<b>COMMON OPEN</b>		
Minimum Area (sq. ft.) per unit (j)	300	250

**NOTES:**

- a. Dwelling unit and wall/fencing shall be located outside the "clear vision triangle area" at street intersections, per City Standards, Detail No. 711.
- b. Garage setback measured from sidewalk, with roll-up doors.
- c. Garages taking access off an alley are to provide a minimum 4' setback/apron.
- d. Patio covers open on three sides should not exceed 30 percent of the size of the usable private open space.
- e. Includes attached garages and patio covers.
- f. The intent of "0 ft" side yard on one side is to encourage a larger or more useful side yard on one side of the house. The required dimensions apply to fenced yard sizes rather than actual building setbacks from the property line. "Zero Lot Line" or similar developments require maintenance access easements.
- g. 10' separation for 1- and 2-story units side-by-side or two 2-story units side-by-side; 8' separation for two 1-story units side-by-side.
- h. Use of 0' side setback on one side is encouraged (other side setback doubled) in order to increase overall private yard area (this does not allow a reduction in open space requirements noted in the table).
- i. Minor architectural projections, such as fireplaces and bay windows, may project into a setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, with minimum 3' clearance.
- j. Fragments less than 15' will not be counted toward the common open space area.

\* Accessory rental units/"Granny Flats" shall adhere to accessory dwelling unit ordinance (pending completion as of March 2005)

\*\* Refer to Table 3 (page 5) for setbacks applicable to three-story houses.



The minimum separation between houses is 8' between single-story homes and 10' between 2-story homes or 2-story homes beside 1-story homes.

**Fig. 3: Side-Yard Separations**  
(Relationship Between Single-Story and Two-Story Homes)



Table 2 identifies setback standards for key project elements that are adjacent to existing and proposed perimeter streets.

Project Components	Perimeter Street is:			
	Local Street	Collector Street	Arterial Street	Expressway
Balcony/Deck	20	20	20	30
Residential Bldg.	15	20	35	35
Detached Garage (entry face)	40	40	NA	NA
Detached Garage (other face)	15	15	15	15

### C. Lot Variation

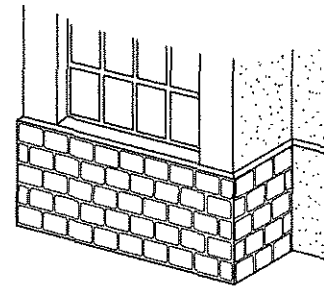
Single-family lot patterns should be varied to avoid monotonous streetscapes. This could be accomplished by the following:

Encourage:

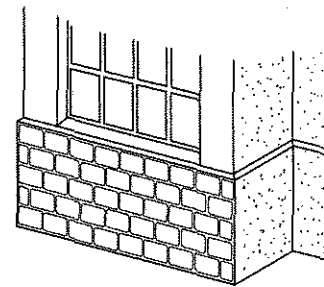
- A variety of lot types and/or sizes on blocks with more than five lots. Lot sizes should vary enough to create a perceptible difference.
- Single-story buildings and larger lots on corners.
- Smaller lots surrounding common open space areas.
- Mix of single- and two-story units.

Discourage/Avoid:

- ✓ Streets with more than five consecutive lots of the same width frontage.
- Blocks more than 600 feet long.



Desirable Treatment



Undesirable Treatment

Fig. 4: Veneer Wrapping

### D. General Building Design

Variation in residences, structures and buildings is achieved through the use of quality materials and detail in design, which lends visual interest, distinctive character and identity to a community. Quality in detail and design contributes not only to the long-term value of a home, but the neighborhood as well.

Encourage:

- Design diversity by providing front elevation variation throughout the plan. To accomplish this, one design should be repeated no more frequently than each fourth house. Veneer treatment where applied should turn corners and avoid exposed edges (Fig. 4)
- Provide four-sided architecture. In addition to the architectural design provided for the front elevation, design side and rear elevations to include treatments (e.g. window frames, shutters, planter boxes, window sills, etc.)



Example of four-sided architecture and design treatments: veneer wrapping, window sills, and decorative bracing along roofline.

- At corner lots, side yard facades should maintain the same architectural design as the front facade.
- Manipulation of building elements and massing to avoid visual monotony with particular emphasis on long streets.
- Vary roof forms and pitches when a project includes five or more homes. Incorporate home designs that rotate ridge lines both parallel and perpendicular to the street and utilize a variety of hips and gables. Other elements which add variety and break up the roof, such as dormers and turrets, are encouraged.
- Roof elements of a two story building that slope downward toward the side property lines, providing greater light and air between buildings, particularly when the separation between the floors of the two adjoining buildings would be less than 15 feet (Fig. 5).
- All houses along a block should share a common architectural theme, which creates visual continuity.
- Single-story homes distributed evenly throughout the neighborhood to provide for seniors, the disabled, and families who prefer or desire single-story homes. Single-story homes are also encouraged to improve the visual character of neighborhoods and minimize the perceived density of two-story neighborhoods.

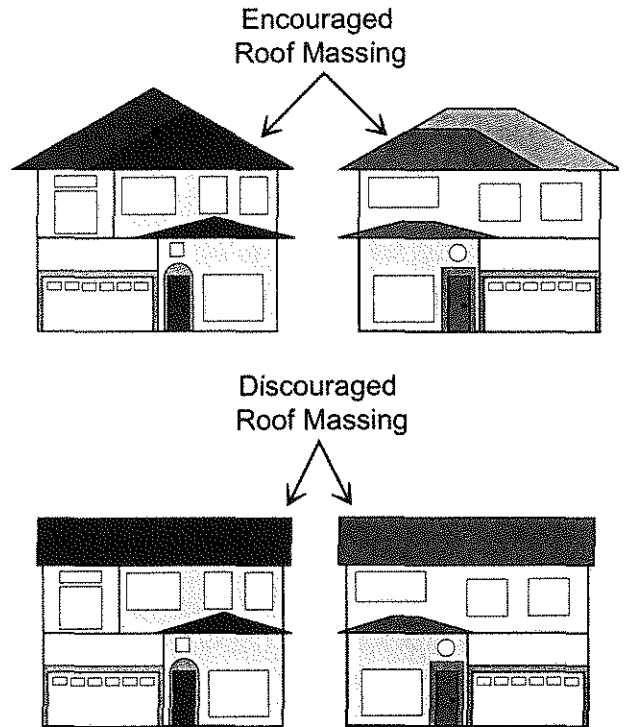
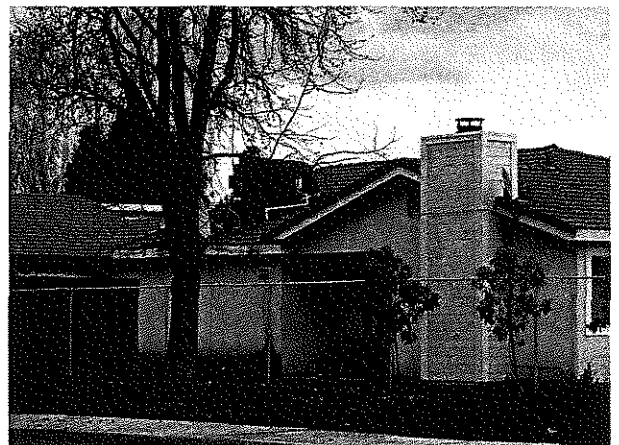


Fig. 5: Roof Massing

Discourage/Avoid:

- Excessive repetition of identical floor plans and elevations throughout a neighborhood or subdivision with little differentiation.
- The use of low quality/grade materials that do not wear well or contribute to a sense of permanence.
- Roof-mounted heating and air conditioning.
- Keyhole entries (primary entrance hidden from view on the side or within deep recess of the building) should be avoided.



Roof-mounted HVAC units are strongly discouraged.

**E. Three-Story Houses**

If three-story houses are proposed, their number should be limited to a maximum of 20 percent of the subdivision, with placement adjacent to multi-family residential or commercial uses only and strongly discouraged adjacent to established single-family neighborhoods and/or single-story units within a small lot development. They should provide alley-loaded garages only, avoid monolithic walls in architectural design and massing, have minimum setbacks as prescribed in Table 3, be designed with consideration towards privacy of surrounding homes, and apply private/common open space, landscaping, and streetscape elements as illustrated by these Design Guidelines.

Lot Size	<3000 sqft	3000-5000 sqft
<b>Front</b>		
1st Story	12	12
2nd Story	15	15
3rd Story	17	17
<b>Side</b>		
1st and 2nd Stories	5	5
3rd Story	7	7
<b>Rear</b>		
Living Area	12	15

## F. Porches, Entries, and Courts

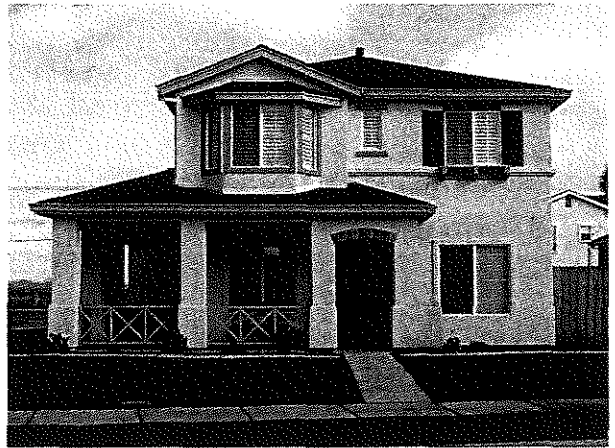
A clear sense of entry and design interest to a home is provided through the inclusion of porches, verandas, porte cocheres, and other architectural elements that contribute to a sense of place and activity.

Encourage:

- Fronts of houses and entries that face the street. Each house should have a clearly identified entry and have active use of windows (i.e. living room, kitchen) facing the street.
- Front porches large enough to accommodate chairs provide an opportunity for increased interaction among neighbors (minimum dimension of 6'x6' plus circulation area).
- Porches that provide weather protection and shade are desired.
- Entries and porches that incorporate railings, short walls, trellises, and roofs to add architectural detail, character, and visual interest to homes.

Discourage/Avoid:

- Small entries not seen from the street.
  - Locating the porch or entryway in a location obstructed by the garage or side of the house.
- Locating entryways and windows that are small and oriented to the interior or side of the site.



Homes with street-facing entries that are not hidden or deeply recessed, and good window placement for viewing the street are highly encouraged.



Home with a recessed entry: with line of sight from the front door limited by the living area wall and side of adjacent home, street activity is difficult to view.

## G. Garage Frontage and Placement

Conventional suburban development typically places the garage in a prominent location on the lot closer to the street with the house back farther from the street. The effects of garage-forward placement are to obstruct the view of the street from inside the house, to make the garage the most important feature of the house, to encourage the driver to enter the house through the garage door and prevent interaction with neighbors, and to decrease the appeal and safety of the street.

The following measures are suggested to minimize the visual impact of garages:

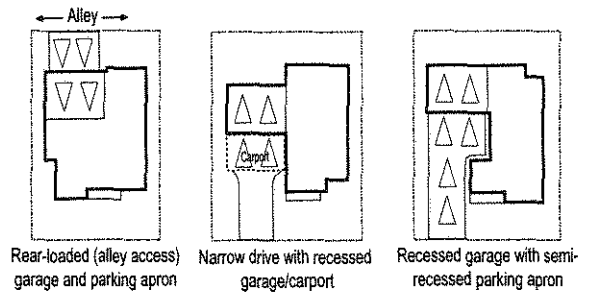
### Encourage:

- For garages accessed from the street, the garage face should be recessed a minimum of 5 feet from the primary living area façade.
- Detached garages accessed from either an alley or a single-car driveway approach from the street.
- Alley-loaded designs particularly for narrow lots is strongly encouraged.

### Discourage/Avoid:

- For garages accessed from the street, garage frontage comprising 50 percent or more of building frontage.

### Desirable Garage/Parking Configurations



### Undesirable Garage/Parking Configurations

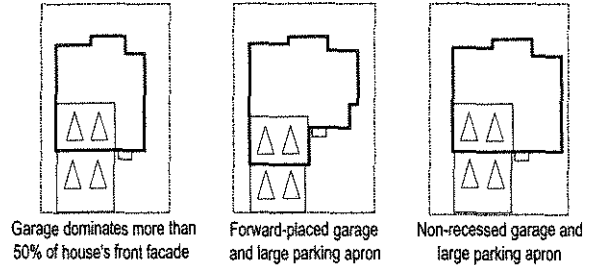
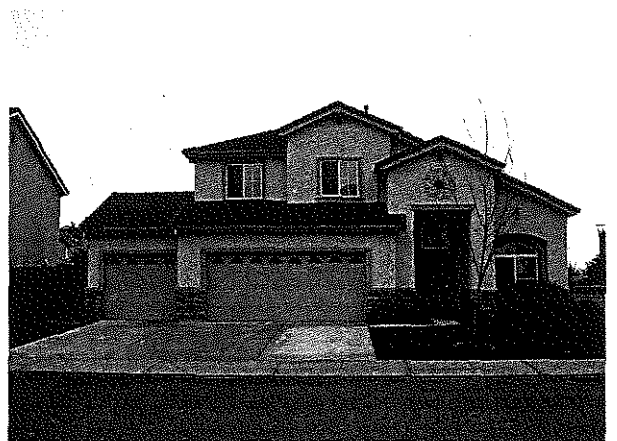


Fig. 6: Garage Frontage and Placement



Recessing the garage from the primary living area reduces its impact to the front facade while maintaining ample parking space.



Homes with garages that dominate the front of the home are not encouraged.

## H. Driveways

Driveways can consume a substantial amount of lot area. A typical automobile is approximately seven feet wide and one to two feet of space is needed on either side to allow access to car doors. In order for the house to relate to the street and to allow observation of the street from inside the house, the width of the lot helps dictate the width of driveway access from the street (one- or two-car approach) or whether the garage should be accessed from an alley at the rear of the lot.

Encourage:

- Different paving treatment to driveways, including colored concrete, stamped concrete, paver-stone insets, etc.
- Single-car width driveways that widen to 2-car aprons at recessed or detached garage.

## I. Parking

Most transportation occurs through the use of the private automobile. Because of this, the Zoning Code requires a minimum of two parking spaces for every single family house. With the increasing number of automobiles in every household, there is an increased need for parking, which is typically provided on the driveway and on the street. At the same time, the current trend is toward an increase in homeownership among single adults and the future will likely see an increase in the use of transit, walking, and bicycling for transportation, particularly as density increases and daily needs are better integrated into the fabric of the city.

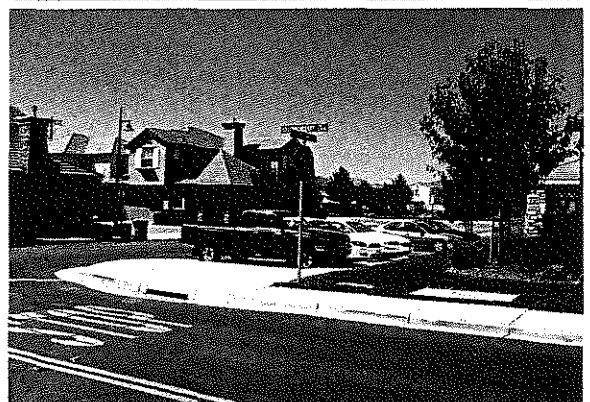
Two enclosed off-street parking spaces will be required for each housing unit. Tandem parking spaces will not be allowed to meet this requirement. Tandem parking may be provided, in addition to the two off-street (side-by-side) parking spaces. In addition, one on-street parking space will be required for each dwelling. Off-street parking spaces located within 150 feet of the unit served, may also be considered.



Home with a single-car width driveway that widens to a two-car apron in front of recessed garage.



On-street parking in recessed spaces between street-tree wells alongside the right of way.



Off-street parking within garages and private parking aprons outside of garages, or community off-street spaces adjacent to homes.

## J. Walls, Fences and Entry Features

Perimeter residences which are part of new developments should be oriented to existing streets, minimizing the extent of sound walls or rear yard walls, except where necessary due to acoustical requirements. Frontage roads are preferred in lieu of soundwalls wherever possible. The design of walls and fences, as well as the materials used, should be consistent with the overall development's design. Fence and wall color should be compatible with the development and adjacent properties.

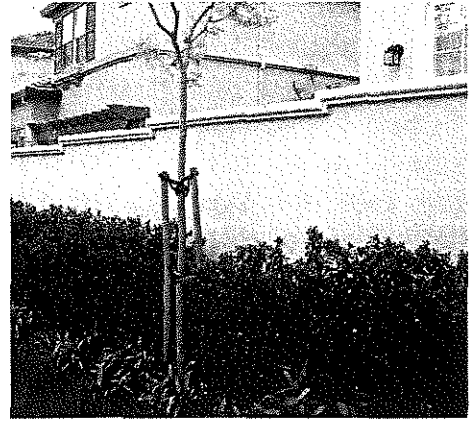
Wall design and selection of materials should consider maintenance issues, especially graffiti removal and long-term maintenance.

Encourage:

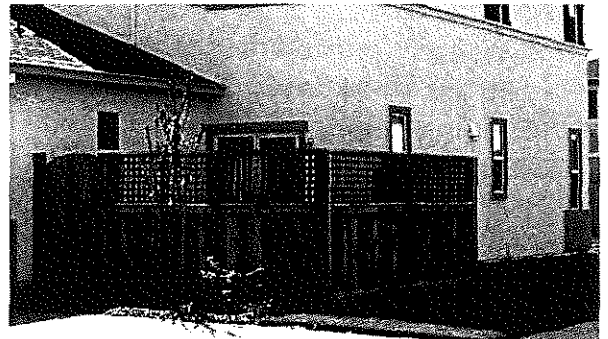
- Soundwalls should have a rhythm rather than a single monotonous design along the entire length, and periodic entries to minimize driving and walking distances and integrate bike paths along the major roads.
- Landscaping and berms to minimize the visual impact of long continuous soundwalls.
- Additional landscape setbacks, street trees and accent trees at entries to improve the appearance of soundwalls.
- Concrete capstones on stucco walls to help prevent water damage from rainfall and moisture.
- Fences and/or walls visible from streets should be architecturally integrated with adjacent buildings as a means of visually tying buildings together.
- Low walls or fences (3'-4' high) at front or side yard patios where desired in lieu of porch railings, provided the wall/fence design is compatible with the architectural style of the house.
- Accent landscaping and trellises to set off development entries are desirable.

Discourage:

- Long walls separating subdivisions front street access and other subdivisions. This type of development restricts movement between neighborhoods and creates "dead" spaces along pedestrian corridors, as well as increasing driving and walking distances.
- Back-up and side-on conditions requiring walled streets.
- Wood fencing along streets since it is not a long-term quality material.



Encouraged: walls architecturally integrated with adjacent buildings; landscape buffer between wall and sidewalk/street.



Fence that has been constructed low but topped with lattice to create a sense of privacy without completely shutting away from street and sidewalk activity.



Discouraged: long walls that isolate neighborhoods from surrounding area; lack of landscaping that causes bare, paved-over appearance.



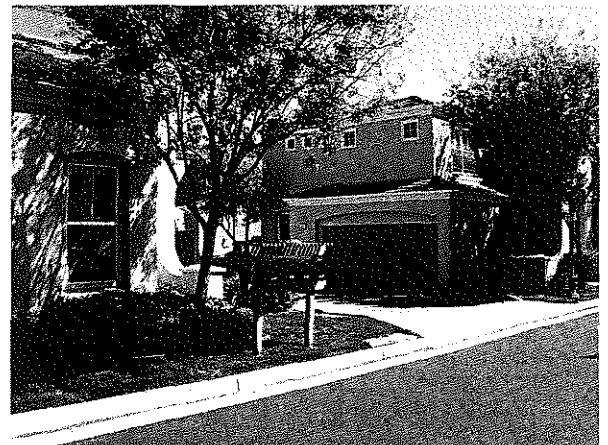
- Gated subdivisions. Gates create a “fortress” feeling and discourage interaction among neighborhoods and neighbors, prevent integration into existing neighborhoods, and discourage walking and bicycling for purposeful trips.

## K. Landscaping

New small lot single-family developments generally lack sufficient landscaping. The high lot coverage and minimal building separations create a harsher streetscape than houses on larger lots. Landscape design guidelines are intended to improve the appearance of the streetscape with landscaping and street trees to diminish the impact of the dense development and provide a softer appearance

Encourage:

- Street trees or yard trees regularly spaced at approximately 20’ to 25’ on center along each side of the street (minimum 1 per lot; refer to Title 10, Chapter 2, Modesto Municipal Code, for additional standards).
- Separated sidewalks with “tree lawns” (min. 4’ wide) (i.e. “parkways”). These may be planted in lawns or other appropriate ground cover (irrigation is required).
- 24-inch box tree specimens for all street and yard trees (consult the Urban Forestry Division, Parks, Recreation, and Neighborhoods Department, regarding tree selection).
- Tree species which create a continuous canopy at 15 years’ maturity.
- Accent trees at special locations within the neighborhood.
- Variety of planting palettes for front yard landscaping to soften the development, reinforce the home design, and add variety to the streetscape.
- Front yard landscaping which reinforces other design elements of the home such as vines on trellises, hedges or low fences and walls.



Landscaping should incorporate a broad palette of trees and plants that are native or compatible to the region’s climate, provide a full canopy at fifteen years of maturity, and add variety to the streetscape.

## L. Mailboxes

Mailboxes should be located in highly visible, heavy use areas for convenience, to allow for casual social interaction, and to promote safety.

Encourage:

- Incorporate design features, such as a built frame, consistent with the development's architectural style.

Discourage:

- Pedestal-mounted cluster mailbox units.

## M. Private Streets

Where private streets are used, they should incorporate design features such as special paving, neckdown intersections and separated sidewalks with street trees to indicate the change from public to private streets (Fig 7).

## N. Street Design Elements and Access

A street serves as more than a place to drive or park a car. Besides its most basic function as a transportation conduit for bicyclists and pedestrians, as well as for cars, a street serves architectural and social functions. Houses relate to the street on which they are located; streets serve to formalize the street edge and demarcate public and private space. Streets are where neighbors meet informally and neighborhood bonds are created. Minimal street connections within a subdivision and to the external street network increase the need to drive and the number of miles driven, discourage walking and bicycling, and reduce emergency access. The site shall be designed to provide accessibility for emergency vehicles.

Encourage:

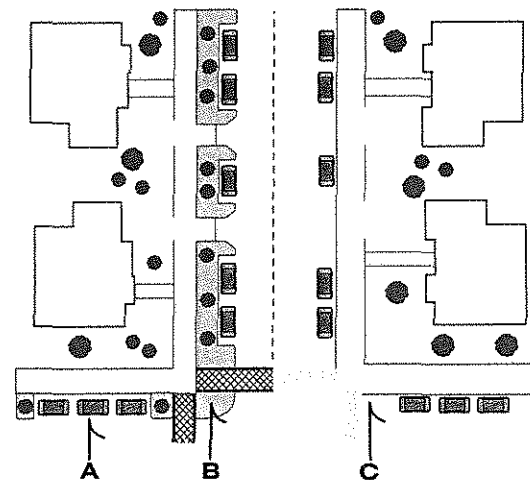
- Residentially scaled street lights
- Separated sidewalks with street trees in planting strips or in tree wells; sidewalks shall be designed in compliance with ADA requirements.
- Accent paving at neighborhood entries and at crosswalks
- Multiple ingress and egress points into subdivisions, which allow more even dispersal of traffic through a neighborhood, decrease vehicle miles driven, and increase the ability to walk or bicycle for short trips.
- Blocks less than 600 feet long.
- Incorporate design features, such as a built frame, consistent with the development's architectural style.



Mailbox design should be consistent with architecture of homes.



Homes that face the street as well as sidewalks separated from the street by planting strips and tree wells are strongly encouraged.



Strongly Encouraged: parking recessed from street, sidewalk separated from street, "neckdown" intersections with enhanced paving at crosswalks (Exhibit B).

Acceptable parking variation: recessed from street while adjacent to sidewalks, with landscaped tree-wells at regular intervals (Exhibit A).

Discouraged: Sidewalks adjacent to streets, roll-over curbs. (Exhibit C)

Fig. 7: Sidewalk and On-Street Parking Configurations (Private Street)



- "Neckdown" streets at intersections to facilitate pedestrian safety, enhance landscaping and reduce excessive speeding, subject to review and acceptance by the Public Works Department and Fire Department.

Discourage/Avoid:

- "Cobra head" street lights (see Section P, Lighting)
- Rollover curbs
- Sidewalks adjacent to street
- Large-radius corner
- Cul-de-sac and dead-end streets

## O. Alley Design

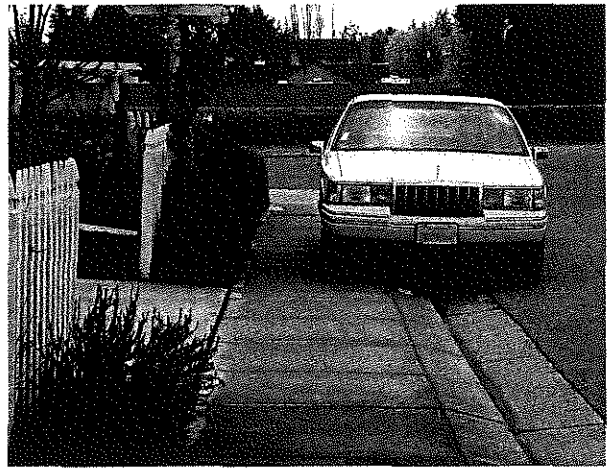
Alleys are desirable because they eliminate the impact of the garage door and driveway apron on the streetscape and eliminate driveway access conflicts on streets with higher traffic volumes or speeds. Alleys also allow homes to front lot, parks, or open space without a road separating the homes from such features. Additionally, alleys provide a convenient placement for the unattractive activities of the City, such as garbage collection and utility maintenance, improve emergency access by creating two points of entry or access to each lot, and create a more walkable street while increasing the residents' ability to survey activity on the street from inside the house.

Encourage:

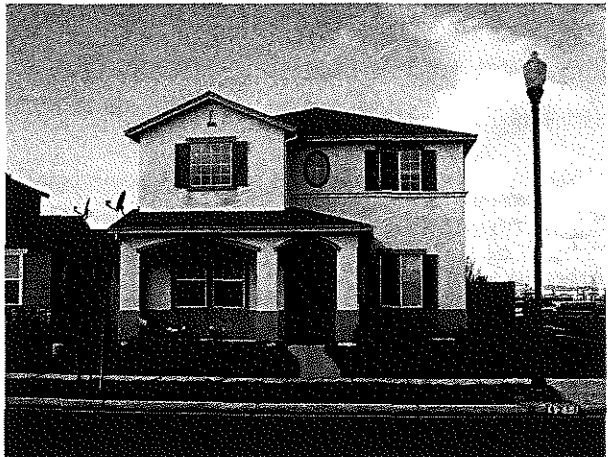
- Alleys should be configured so that activity in the alley can be easily observed from a single point.
- Special accent paving at entries.
- Landscaping should be consistent with the development, with 4-foot landscape strips and a minimum of one tree per lot.
- Protection of trees in the form of tree guards or substantial double-staking to protect trees placed in the 4-foot landscape planting space. Attention should be directed to proper selection of tree species and forms that can prosper in these more limited conditions.
- Building or pedestal lighting should be provided from each lot.

Discourage/Avoid:

- Dead-end alleys. If dead-end alleys are necessary, they should be no more than 100 feet long.



Rollover curbs are strongly discouraged: drivers not inhibited by square-cut curbs from moving or parking on the sidewalk can pose serious danger to pedestrians.



Example of alley-accessed garages and the eliminated impact of driveways and garages from the front of the home and streetscape.

## P. Lighting

Lighting should relate to the pedestrian scale of residential neighborhoods and should be considered a design element, rather than simply utilitarian.

Encourage:

- Light standards less than 15 feet in height. Decorative Visco VI-X-1-OF standard or equivalent standard with the same bulb type as the Visco are encouraged.
- Bollard lighting is encouraged along walkways.
- Metal halide luminaries.

Discourage/Avoid:

- Overhanging "cobra head" light fixtures.

## Q. Homeowners' Associations

A Homeowners' Association (HOA) is required to provide ongoing maintenance for any and all of the following project elements:

- Private streets
- Private utilities
- Alleys
- Private common open space including recreation facilities (not maintained by a community facilities district (CFD)).
- Storm water drainage basins, and related facilities (catch basins, swales, etc.), (not maintained by a CFD).
- Common area landscaping and lighting
- All other common areas, utilities, and facilities

## R. Utilities, Infrastructure & Easements

Any and all private infrastructure shall be constructed to City standards. Public Utility Easements shall be provided for all public utility connections, in compliance with City Standards.



Pedestrian-scaled decorative light fixtures add to the intimacy and character of a neighborhood.



Strongly discouraged: oversized utilitarian fixtures such as this "cobra-head" example, which outscales the surrounding homes and lends little character to the neighborhood.

## II. COURTHOMES

### INTENT

Courthomes are a type of housing where houses on individual small lots are arranged around a common driveway. These present a special challenge in site planning due to the tight arrangement of lots and the arrangement of houses on the court, as well as the shared driveway, which requires that cars be parked inside the garage in order to allow the residents driveway access and egress.

The following guidelines apply specifically to courthomes and will be considered in addition to the previous small-lot guidelines contained in Section I. When evaluating courthomes, where there is any apparent conflict, the guidance below supercedes that above.

#### A. Setbacks and Separations

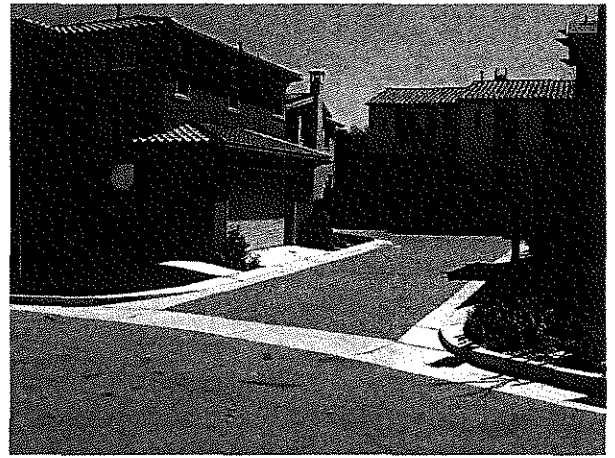
Similar to setbacks in conventional development, setbacks and separations in courthomes are used to create access around a building, provide adequate space for utilitarian functions, allow the passage of light and air between buildings and create open space, while minimizing noise and intrusion and maximizing privacy. The following provisions are intended to serve those purposes.

The following guidance establishes siting and setback criteria that supplement Section I.

The minimum front setback for courthome units adjacent to streets should be:

<b>Table 4: FRONT SETBACKS (IN FEET)</b>	
Living Area	12
Porches (at least six feet deep)	10
Attached Garage (entry side)	Strongly Discouraged (a)
Attached Garage (non-entry side)	12

a) such design (garage entry facing street, not accessed by private court) may only be considered for exceptional circumstances.



An example of courthomes and their private, common drive.



Setbacks should not be so narrow that access around buildings is difficult, and passage of sunlight is limited.

Courthome separations and perimeter setbacks are to be provided as follows:

- ↘ The minimum separation between building faces of units on one court and those on another court should be 14 feet (Fig. 8).
- Separations between adjacent buildings in the same court should be at least 10 feet.
- For privacy, second floor windows, except for clerestory windows, should be avoided on elevations which overlook private open space areas of adjacent units. In instances where second floor windows are unavoidable, they should be setback at least 15 feet from property lines and separated from adjacent open space areas by tall shrubs or trees.
- On corner sides, conform with the "clear vision triangle" area requirement at street intersections per City Standards, Detail No. 711.
- On sides that back up to a street, all buildings should be set back 15 feet from the property line.
- Minor architectural projections, such as fireplaces and bay windows, may project into setback or separation by up to 2 feet for a length not to exceed 10 feet or 20 percent of the building elevation length, with minimum three-foot clearance.

Encourage:

- Houses adjacent to a local residential street should face the street.
- All courthomes should take garage access from the court.

### B. Courtyard Design

Courthomes with six units accessed from a single drive (courtyard) present site development issues and concerns. With respect to courthomes with drives serving six units, the ends of the courtyard visible from the adjoining street are dominated by garage doors. Typically, these units are the same model type and offer little or no architectural variation from one another.

Other issues surface with potential vehicular conflicts with internal units at the ends of the court. The following design provisions are recommended for courthome developments.

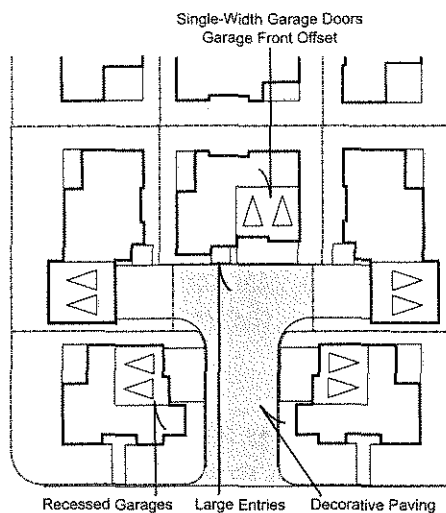
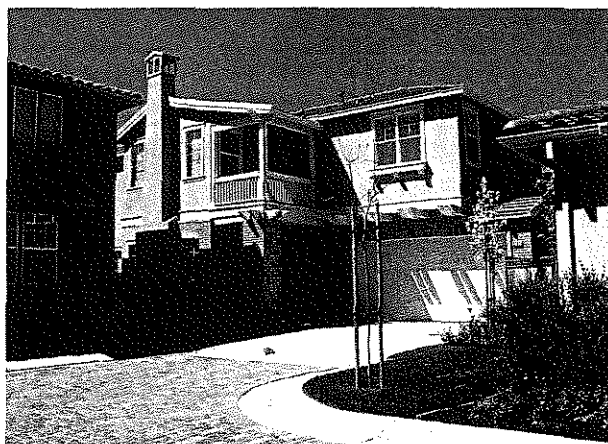


Fig. 8: Courthome Design



Homes adjacent to street should face the street with garage access from the courtyard.



Garages should be recessed behind the dwelling unit.

## Encourage:

- The maximum number of units accessed from a single courtyard should be limited to five. Sites with unusual configurations may include an occasional courtyard which serves up to six units.
- Courtyards should not exceed 100 feet in length (Fig. 8).
- The paved circulation portion of the courtyard should have a minimum width of 16 feet, but larger dimensions are encouraged to foster the "courtyard" image. The entrance to the courtyard, at the street, should be at least 20 feet in width and 100' in depth (measured from the face of curb) (Fig. 8).
- Recess garages behind the main dwelling unit similar to typical lots, to minimize the visual impact of the garage door and parking apron. Use roll-up doors for garages.
- To discourage obstruction of the driveway, garage aprons should be either less than six feet deep or more than 18 feet deep.
- Parking aprons should be limited to the rear units not visible from the street.
- Paved areas in front of garage doors should have a minimum back out dimension of 26 feet.
- Trees and large landscape fingers between parking aprons are strongly encouraged to break up the expanse of paving and view of garages. An average of 200 square feet of landscaping per unit should be provided within the courtyard. Trees should be provided at the rate of one front yard tree at each interior lot minimum. No part of the access street setback area may be counted toward the 200-square-foot requirement.
- Decorative paving should be provided in the courtyard (Fig. 9).
- Green space should be placed at the end of court as a focal point.
- Variation of building types and elevations on end units is encouraged.

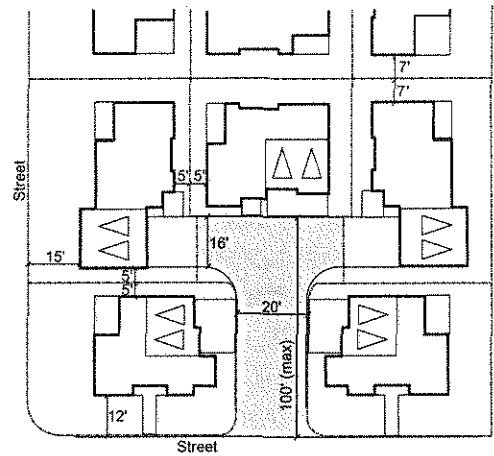


Fig. 9: Courthome Setbacks



Encouraged: decorative paving accent on private drive, such as the paver stones shown in above photo.



Discouraged courtyard entry and house placement: plain asphalt or concrete and garages that visually dominate end of drive.

## Discourage/Avoid:

- Terminating vistas from the street should not be garage dominated.
- In order to minimize paving within the courtyard, parking aprons accommodating parking in front of the garage are discouraged in the front of the "front" unit garages; parking aprons should be limited to the rear units.

- Asphalt concrete paving should be avoided in the courtyard.

### **C. General Building and Open Space Design**

Building design is a particularly important component of the courthome concept. Courtyards should be sharply defined by the near continuous faces of the buildings clustered around the perimeter. The following design provisions supplement those identified in Section I.

Encourage:

- All units in a court should share a common architectural theme which visually links them.
- Enlarge entries with porches to accent corners and interior vista.
- 300 square feet of common open space per unit should be provided for projects with more than 15 units that are not adjacent to a public park (refer to common open space guidelines on page 3).
- 10' minimum dimension for private open space (rear yard area)

### **D. Landscape Maintenance Requirements**

A Homeowners Association must be established to maintain front yard, courtyard area and common area landscaping within the project.



Homes should have a similar architectural theme to visually tie the neighborhood, but also feature a variety of building materials and color palettes to avoid a "cookie-cutter" look to the development.



Spacious common areas are strongly encouraged. Also encouraged are interior courts, paseos, and large landscaped areas at private drive entries.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-254**

**A RESOLUTION VACATING AND ABANDONING A PORTION OF ALMA  
AVENUE NORTH OF WEST ROSEBURG AVENUE (HORIZON  
CONSULTING SERVICES)**

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public streets, and

WHEREAS, Government Code Section 65402 requires that prior to abandoning a public street, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, Dennis Wilson, Horizon Consulting Services, on behalf of Howard Downing, Hart Floral, has filed an application to vacate and abandon a portion of Alma Avenue north of West Roseburg Avenue, and

WHEREAS, a title report was submitted with the abandonment request which vests fee title to this portion of Alma Avenue in an adjacent land owner who in turn has quit claimed his interest to the subject portion to the proponents of the abandonment, and

WHEREAS, the proposed partial street abandonment has been referred to affected City departments and local utility companies, and no objection to the abandonment has been received, and

WHEREAS, no utilities exist in the portion of Alma Avenue right-of-way to be abandoned, and

WHEREAS, a public hearing was held by the Planning Commission on October 15, 2001, in the Tenth Street Chambers, located at 1010 10<sup>th</sup> Street, Modesto, California, at which hearing both oral and documentary was received and considered regarding the proposed abandonment, and

WHEREAS, by Planning Commission Resolution No. 2001-62, the Planning Commission recommended approval of the proposed vacation and abandonment, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, May 10, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which time all persons interested in or objecting to the proposed vacation were afforded the opportunity to appear, 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 proposed area of Alma Avenue have been done and accomplished,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto finds and determines as follows:

1. That the portion of Alma Avenue to be abandoned is unnecessary for present or future pedestrian or vehicular use.
2. That Environmental Assessment No. 2005-14 judged this project to be consistent with the City of Modesto General Plan Master Environmental Impact Report.
3. That the vacation and abandonment of a portion of Alma Avenue 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 portion of Alma Avenue north of West Roseburg Avenue. Said proposed vacation and abandonment is more particularly described in Exhibit "A" and Exhibit "B" attached hereto, and by this reference made a part hereof as though set forth in full herein.



BE IT FURTHER RESOLVED that 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, concurrent with a lot line adjustment adding the abandoned portion of Alma Avenue, to the adjoining land to the east.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

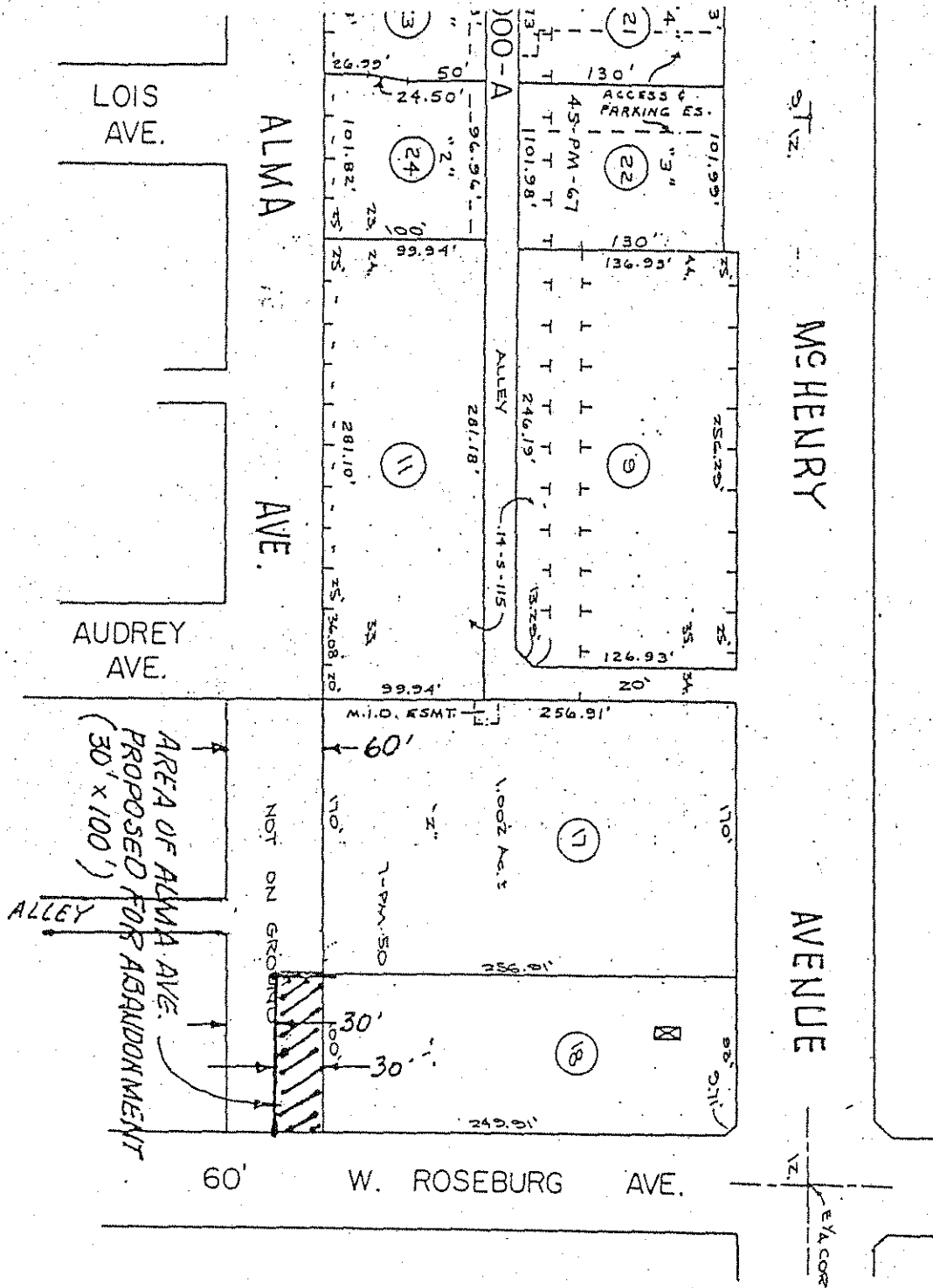
Exhibit "A"

EXHIBIT "A"

All that portion of the NE 1/4 of Section 20, Township 3 South, Range 9 East Mount Diablo Base and Meridian, situated in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

The Southerly 100.00 feet of the Easterly 30.00 feet of Alma Avenue, a 60.00 foot wide public street as shown on the map of the Mensinger Tract No. 4 , per map filed in Volume 14 of Maps at Page 68, Stanislaus County Records. The east line of said 30.00 foot wide strip of land is the West line of Parcel 1, as shown on the map filed in Volume 7 of Parcel Maps at Page 50, Stanislaus County Records.

EXHIBIT "B"



PLAT TO ACCOMPANY  
ABANDONMENT REQUEST

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-255**

**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): VACATION AND ABANDONMENT OF A PORTION OF  
ALMA AVENUE RIGHT-OF-WAY EXTENDING NORTH FROM WEST  
ROSEBURG AVENUE (HORIZON CONSULTING SERVICES)**

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the updated Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Dennis Wilson, Horizon Consulting Services, on behalf of Howard Downing, Hart Floral has proposed that a 30-foot-wide portion of Alma Avenue adjoining property at the northwest corner of McHenry and West Roseburg Avenue be vacated and abandoned (the "Project"), and

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

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2005-14 ("Initial Study") reviewed the proposed Project to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR, and made the determination that the proposed Project will have no additional significant effect on the

environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed Project is within the scope of the project covered by the Master EIR, and

WHEREAS, notices were posted in the proposed street right-of-way abandonment area 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 and Highways Code Section 8323 and 8332 respectively, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 10, 2005, 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 Project, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference. Based on the substantial evidence included in said Initial Study, Council hereby makes the following findings:

1. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041) which analyzed the potential impacts of buildout of the Baseline Developed Area.
2. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
3. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
4. There are no specific features unique to this project that require specific mitigation measures. All certified

mitigation measures identified in the MEIR will apply Citywide, including this project, as appropriate.

5. The Initial Study, EA/C&ED No. 2005-14, provides substantial evidence to support findings 1 through 4 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 10th day of May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT A  
Initial Study  
EA/C&ED 2005-14



City of Modesto  
Initial Study

**Abandon Portion of Alma Avenue North of W. Roseburg Avenue**

**EA/C&ED 2005-14**

April 13, 2005

**I. PURPOSE**

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

**II. PROJECT DESCRIPTION**

- A. Project title:  
Public Hearing – Application of Horizon Consulting Services, to abandon a portion of Alma Avenue right-of-way, located north of W. Roseburg Avenue and west of McHenry Avenue.
- B. Lead agency name and address:  
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:  
Robert S. Cannell  
City of Modesto Community & Economic Development Department  
Planning Division  
P.O. Box 642  
Modesto, CA 95353  
(209) 577-5274
- D. Project Location:  
Within Alma Avenue right-of-way, north of W. Roseburg Avenue and west of McHenry Avenue.
- E. Project Sponsor:  
Dennis Wilson  
Horizon Consulting Services  
P.O. Box 1448  
Modesto, CA 95353
- F. General Plan Designation:  
Residential (R)

G. Current Zoning:  
Single Family Residential (R-1)

H. Description of Proposed Project:

This is an application to abandon a portion of Alma Avenue north of W. Roseburg Avenue and west of McHenry Avenue. The surrounding area is developed with the McHenry Avenue commercial corridor to the east, and residential uses to the west. The purpose of the proposed abandonment is to provide additional parking area for an adjacent commercial business.

I. Surrounding land uses: (See "H." above.)

J. Other public agencies whose approval is required: None.

### III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR (MEIR) for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the MEIR.

#### A. **Traffic and Circulation**

The proposed project will likely contribute to increased traffic in the area. However, the proposed development is consistent with the Traffic and Circulation Needs section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

#### B. **Degradation of Air Quality**

The air quality impacts for the proposed project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, the proposed project will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are still valid.

#### C. **Generation of Noise**

The proposed project is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of residential and commercial uses. Because a masonry wall will enclose the parking area, the Day-Night Average Sound Level (Ldn) for this neighborhood area can be ensured. No significant noise impacts will be generated as a result of the proposed parking lot use, nor will the adjacent neighborhood be impacted as a result of this use. It will not create additional significant effects and Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.

#### D. **Loss of Productive Agricultural Land**

The project area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

**E. Increased Demand for Water Supplies**

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide water service to the site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are still valid.

**F. Increased Demand for Sanitary Sewer Services**

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide sanitary sewer service to the project site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are still valid.

**G. Loss of Sensitive Wildlife and Plant Habitat**

The proposed project is in a built-up urban area and will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are still valid.

**H. Disturbance of Archaeological and Historic Sites**

Figure 8-1 of the MEIR indicates that the proposed project is not within the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages IV-8-1 through IV-8-21) are still valid.

**I. Drainage, Flooding and Water Quality**

The proposed project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will reduce the impacts of increased runoff within the baseline developed area to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages IV-9-1 through IV-9-23) are still valid.

**J. Increased Demand for Storm Drainage**

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure to provide for adequate storm drainage. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages IV-10-1 through IV-10-8) are still valid.

**K. Increased Demand for Parks and Open Space**

The MEIR concluded that demand for parks and open space would be mitigated through the payment of Capital Facilities Fees (CFF) for new development, which would be used for the development of new parks. As a result, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are still valid.

**L. Increased Demand for Schools**

The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

**M. Increased Demand for Police Services**

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid.

**N. Increased Demand for Fire Services**

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are still valid.

**O. Generation of Solid Waste**

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10) are still valid.

**P. Generation of Hazardous Materials**

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-15) are still valid.

**Q. Landslides and Seismic Activity**

The proposed project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages IV-17-1 through IV-17-11) are still valid.

**R. Energy**

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are still valid.

**IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS**

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041) which analyzed the potential impacts of buildout of the Baseline Developed Area.
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this project that require specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project, as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Robert S. Cannell  
Senior Planner

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-255A**

**A RESOLUTION DENYING AN AMENDMENT TO SECTION 3-3-9 OF THE ZONING MAP TO REZONE FROM SP-O (SPECIFIC PLAN-OVERLAY ZONE) TO PLANNED DEVELOPMENT ZONE, P-D(572) PROPERTY LOCATED ON THE NORTH SIDE OF MABLE AVENUE WEST OF OAKDALE ROAD AND THE PROPOSED DEVELOPMENT PLAN (FLORSHEIM LAND COMPANY, LLC)**

WHEREAS, a verified application for an amendment to Section 3-3-9 of the Zoning Map was filed by Florsheim Land Company, LLC, on June 4, 2004, to rezone from Specific Plan Overlay Zone to Planned Development Zone, P-D(572), to allow the development of small-lot and attached residences, property located on the north side of Mable Avenue west of Oakdale Road, described as follows:

Rezone SP-O to P-D

All that certain real property situated in the southeast ¼ of Section 3, Township 3 South Range 9 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the northwest corner of Parcel 3, as shown on that certain map, filed for record on October 26, 1981 in Book 32 of Parcel Maps, at Page 43, Stanislaus County Records, said corner being marked with a ¾" iron pipe, tagged LS 2803; thence along the North boundary of said Parcel 3, South 89°49'35" East, a distance of 852.61 feet to the northeast corner of said Parcel 3 and a point on the West right-of-way line of Oakdale Road, said point being 50.00 feet distant at right angles from the centerline of said Oakdale Road, said centerline being also the East line of said Section 3; thence parallel with said centerline and said East section line, along the East line of said Parcel 3, South 00°33'56" East, a distance of 806.50 feet to the southeast corner of said Parcel 3 and a point on the North line of that certain property, described in a Quitclaim deed of Jeffrey S. Martin and Victoria P. Martin as Exhibit "A-1", and filed for record on December 20, 2001 as Document No. 2001-0155946-00 and corrected in document filed for record on October 1, 2002 as Document No. 2002-0127225-00, Stanislaus County Records; thence along said North line, North 89°59'40" East, a distance of 30.00 feet to the northeast corner of said Quitclaim deed property, said northeast corner being 20.00 feet distant at right angles from said centerline and said East section line;

thence along the East line of said Quitclaim deed property, parallel with said centerline and said East section line, South 00°33'56" East, a distance of 507.27 feet to the southeast corner of said Quitclaim deed property and the intersection of said West right-of-way line of Oakdale Road and the North right-of-way line of Mable Avenue, said intersection being 20.00 feet distant at right angles from the centerline of said Mable Avenue and the South line of said Section 3; thence along the South line of said Quitclaim deed property and said North right-of-way line, South 89°48'54" West, a distance of 879.34 feet to the southwest corner of said Quitclaim deed property; thence along the West line of said Quitclaim deed property and the West line of said Parcel 3, North 00°42'21" West, a distance of 1319.23 feet to the Point of Beginning.

WHEREAS, a public hearing was held by the City of Modesto Planning Commission on April 4, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the City of Modesto Planning Commission, by its Resolution No. 2005-17, recommended to the Modesto City Council that the rezoning of the property as requested is consistent with the Modesto Urban Area General Plan because:

1. The proposed development is consistent with the purpose and intent of the Residential Land Use Designation;
2. The proposed development is consistent with the intent of the North Beyer Park Specific Plan, as amended; and
3. The proposed development will help the City of Modesto meet the goals of the City's Housing Element by designating a site for multiple family attached dwellings.

WHEREAS, a public hearing was held by the City Council on May 10, 2005, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, concurrent with the public hearing on the proposed rezoning, the Modesto City Council denied the requested Amendment No.2 to the North Beyer Park Specific Plan, based on inconsistency with the 1995 Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby finds and determines that the rezoning of the property as requested is not required by public necessity and convenience and the general welfare for the following reasons:

1. The proposed storm water drainage basin to serve the proposed Planned Development zone does not comply with the City's dual-use park-basin policy. In consequence, the proposal does not conform to Sections V.E.3.e and V.E.3.f of the Modesto Urban Area General Plan.
2. The proposed Amendment #2 to the North Beyer Park Specific Plan, which would have allowed for the proposed rezone, was denied and therefore this proposed Planned Development zone is inconsistent with the North Beyer Park Specific Plan because the residential lots do not meet the requirements of the R-1 zone and streets do not conform to the street cross sections.

BE IT FURTHER RESOLVED by the City Council that, based on the above findings, it hereby denies without prejudice the application of Florsheim Land Company, LLC, to amend Section 3-3-9 of the Zoning Map to reclassify the property described above from SP-O Zone, to Planned Development Zone, P-D(572).



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

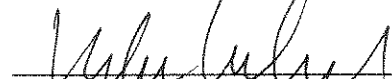
AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant, Ridenour

NOES: Councilmembers: Dunbar

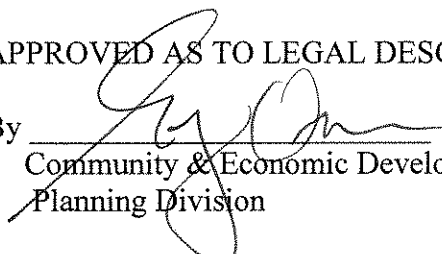
ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By:   
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-255B**

**A RESOLUTION DENYING AMENDMENT NO. 2 TO THE NORTH BEYER  
SPECIFIC PLAN FOR THE DEVELOPMENT OF SMALL-LOT SINGLE  
FAMILY AND ATTACHED RESIDENCES (FLORSHEIM LAND COMPANY,  
LLC)**

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

WHEREAS, on November 26, 1996, the Modesto 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, on February 25, 2003, by Resolution No. 2003-102, the City Council of the City of Modesto approved Amendment No. 1 to the North Beyer Park Specific Plan, and

WHEREAS, Florsheim Land Company, LLC, applied for an amendment to the North Beyer Park Specific Plan to allow the development of small-lot single family and attached residences on 26 acres located at the northwest corner of Oakdale Road and Mable Avenue, and

WHEREAS, at 7:00 p.m. on April 4, 2005, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the North Beyer Park Specific Plan was considered, and

WHEREAS, after said public hearing held on April 4, 2005, the Planning Commission adopted Resolution No. 2005-16, recommending to the City Council an amendment to the North Beyer Park Specific Plan to allow the development of small-lot single family and attached residences, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 10, 2005, 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 City Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the North Beyer Park Specific Plan is inconsistent with the 1995 City of Modesto Urban Area General Plan for the following reason:

1. The Specific Plan as proposed does not comply with the City's dual-use park-basin policy. In consequence, the proposal does not conform to Sections V.E.3.e and V.E.3.f of the Modesto Urban Area General Plan.

BE IT FURTHER RESOLVED, that the City Council notes that the proposal has the following additional deficiencies which should be addressed for any further consideration:

1. The component comprising attached dwellings must be approved and constructed before the detached dwellings are constructed.
2. Different types of dwellings should be interspersed throughout the site, rather than being located in exclusive areas.
3. Improve circulation and access to surrounding streets.

BE IT FURTHER RESOLVED, that based on the above findings, the Modesto City Council hereby denies without prejudice the proposed Amendment No. 2 to the North Beyer Park Specific Plan.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of May 2005, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Hawn, Jackman, Keating, Marsh, O'Bryant, Ridenour
Noes:	Councilmembers:	Dunbar
Absent:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-256**

**A RESOLUTION TRANSFERRING MANAGEMENT OF THE PUBLIC ACCESS  
CHANNEL 26 TO THE NON-PROFIT ORGANIZATION, COMMUNITY MEDIA  
NETWORK**

WHEREAS, the Local Cable Committee was reestablished on March 3, 2004, tasked with creating a non-profit corporation to manage the Public Access Channel and given a completion date of December 31, 2004, and

WHEREAS, on December 16, 2004, the Local Cable Programming Committee was granted an extension date of April 30, 2005, and

WHEREAS, the non-profit corporation was to be created specifically for the sole purpose of managing the Public Access channel and would assume responsibility for the management of Public Access once formed, and

WHEREAS, the non-profit corporation will seek private funding sources for the operation of the Public Access channel, and

WHEREAS, the Local Cable Programming Committee has formally requested by letter, a copy of which is attached as Exhibit "A", that the operation of the Public Access by the City of Modesto Public Access Channel be managed by the newly created non-profit organization, Community Media Network (CMN), and

WHEREAS, the City of Modesto will provide the daily operational cost until June 30, 2005, and

WHEREAS, on July 1, 2005, Community Media Network will be responsible for all of the operational costs of the Public Access channel, and

WHEREAS, City staff recommends and the Council determines that \$16,000 of funds in the Public Access budget should be made available to community Media Network in order to fund its continuing start-up expenses, and

WHEREAS, staff presented this item to the Finance Committee on April 25, 2005, and the Committee recommended taking the item to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of management of Public Access Channel 26 to the non-profit organization, Community Media Network.

BE IT FURTHER RESOLVED by the Council that the City will provide the daily operational costs of Public Access Channel 26, until June 30, 2005, and on July 1, 2005, Community Media Network will be responsible for all of the operational costs of Public Access Channel 26.

BE IT FURTHER RESOLVED by the Council that the remaining balance in the Public Access channel budget of approximately \$16,000 shall be made available to CMN for payment of qualified expenses. The City Manager, or his designee, shall, in his or her sole discretion, determine whether or not any expenses submitted by CMN for payment would qualify for payment.

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 May 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

April 11, 2005

Mayor Jim Ridenour  
Councilmember Will O'Bryant  
Councilmember Bob Dunbar  
Councilmember Janice Keating  
Councilmember Denny Jackman  
Councilmember Garrad Marsh  
Councilmember Brad Hawn  
City of Modesto  
1010 Tenth Street  
Modesto, CA 95354

Dear Mayor and Councilmembers,

On behalf of the Local Cable Programming Committee, I am writing to you and the other members of the Modesto City Council to provide you with an update on the Committee's task of forming a non-profit corporation to oversee the operation of the Public Access Channel, currently located on Channel 26 on the Comcast cable television system. This report is a follow-up to the Council's Dec. 14, 2004 resolution approving extension of the City of Modesto ' support of the Public Access Channel through April 30, 2005

After an extensive outreach and recruitment effort, the Committee is pleased to report that it has selected 13 citizens to serve on the board of directors of the Community Media Network (CMN.) The Committee took this action by a unanimous vote at its special March 31 meeting.

The board members are:

- President: Wes Reed, retired PG&E marketing and customer services manager
- Treasurer: Linda Wade, President and CEO, Mighty Women of Modesto
- Secretary: Amanda Evans, student, CSU Stanislaus, Organizational Communications
- Erik Buck Townsend, founding general director, Townsend Opera Players
- Carol Lancaster Mingus, Mass Communications Instructor, MJC
- Allen F. Clark, owner, Dinosaur TV Studio
- Regina Robinson, medical clerk, Alameda County Medical Center
- Don Langman, owner, Pathways
- Lynette Scott, registered nurse
- Nelly Paredes-Walsborn, director/producer, Walsborn Productions
- Claire Stevens, activities coordinator, Kindred Hospital
- Frank Azevedo, owner, KAZV-TV
- Chris Murphy, vice president, Sierra Pacific Warehouse Group.

We are in the process of informing the applicants of their selection. The Board will hold its first meeting on Wednesday, April 20, at 6:30 p.m. at the Stanislaus County Office of



Education and begin the process of transferring control of the Public Access channel from the City of Modesto to the CMN.

Since we last reported to you on Dec. 6, 2004, the Committee has been engaged in a considerable amount of activity. These highlights include:

- The Committee retained the consulting services of Ron Cooper, Executive Director of Access Sacramento. He has provided valuable insight into the formation of a non-profit, candidate selection and provided the Committee with various resources on Public Access.
- The Committee's Bylaws Subcommittee has met with the local accounting firm of Clendenin and Bird, which has indicated its willingness to assist in the creation of a non-profit. Additionally, the subcommittee has secured a pledge of pro bono work from Modesto attorney Bradley Post from the law offices of Borton, Petrini & Conron to assist in the setting up of the non-profit.
- An intensive outreach campaign was conducted to inform the public of the opportunity to serve as a director on the CMN. Press releases were sent to local media outlets, in addition to being posted to the City of Modesto website. This effort resulted in stories in the Modesto Bee, as well as appearances by Committee members Chris Murphy and Mark Looker on KAZV-TV shows as well as the Central Valley Report.
- The previously formed non-profit, Community Media Network, was reactivated by the California Secretary of State and transferred, ready for use by the new board of directors. This saved considerable time and resources.
- Development of selection criteria by the Board of Directors Recruitment Subcommittee and development of a Nominee Assessment Form to assess the unique skills of each applicant.
- A public informational meeting was held on Feb. 22, 2005, at the Stanislaus County Office of Education at which 36 members of the public attended. Those attending learned about the requirements and duties anticipated for board members. Applications were made available at the meeting, in addition to being posted to the City of Modesto website.
- Three interview sessions with applicants were held on March 28, March 31 and April 6.

As the non-profit becomes operational, one of its major tasks will be structuring a budget that includes underwriting and grant opportunities. The Committee anticipates the CMN Board will be developing a marketing and business plan in the near future. However, the Committee would like to strongly state its belief that the city of Modesto must continue with the commitment it has made to the Public portion of PEG by continuing to dedicate a portion of the current 3% franchise fee to Public Access. As you are aware, the Council at its Dec. 14, 2004 meeting adopted the following resolution: *"Resolution approving extension of the City of Modesto ' support of the Public Access Channel through April 30, 2005 at a cost of \$8,000 recommended. "*

A review by the Committee of every successful Public Access Channel operation in California shows that a strong and viable Public Access Channel is possible only with the financial support of a portion of the franchise fee.

In conclusion, the Committee would request the Council take the following actions:

- Adopt a resolution congratulating the newly selected members of the Community Media Network and expressing the Council's ongoing support for this effort to transfer control of the Public Access Channel from the City of Modesto to the Community Media Network. Suitable wording for the resolution can be provided upon request.
- Extend the remaining \$8,000 budget to the Community Media Network to fund its continuing startup expenses and efforts.

On behalf of the Committee, I would like to thank the Council for its support to date of the efforts to form a non-profit organization to oversee Public Access. This effort faces many formidable challenges but the Committee is confident that the City will continue to be supportive of Public Access just as strongly as it supports the operation of the Education and Government channels.

Sincerely,

Mark Looker, Chairman  
Local Cable Programming Committee

Attached: Board of Directors Recruitment Press Release; Press Release on Feb. 22, 2005 public meeting.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-257**

**A RESOLUTION UPHOLDING THE CAPITAL FACILITY FEE  
EXEMPTION REQUIREMENTS FOR LOW-INCOME HOUSING**

WHEREAS the City of Modesto has previously adopted Resolution 2004-527 which outlines reasons necessary for the exemption and deferral of Capital Facility Fees, CFF, and

WHEREAS, City development fees, as determined by the City in its Housing Element and Consolidated Plan, often serve as barriers to quality housing for those with special needs; the City is interested in further housing opportunities to all segments of our community and has adopted an exemption and deferral policy for housing units dedicated to low-income households, and

WHEREAS, the term “low income housing” shall mean: housing at rents affordable to households earning sixty percent (60%) or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development, and

WHEREAS, the City wishes to monitor and enforce the low income provisions for the exemptions and deferrals it grants, to ensure that low income housing is provided for a period of ten years after the date of the deferral, and

WHEREAS, the CFF exemption will be based on ten years of construction from the date of move in whereby development changes are restricted unless the CFF is paid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby upholds its existing requirements for Capital Facility Fee exemptions and deferrals for low income housing.

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 May 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-258**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
NANCY SMITH FROM THE COMMUNITY QUALITIES FORUM,  
EFFECTIVE SEPTEMBER 7, 2004**

WHEREAS, NANCY SMITH was appointed a member of the Community Qualities Forum on February 25, 2003 and

WHEREAS, NANCY SMITH has tendered her resignation from the Community Qualities Forum, effective May 24, 2005; and

WHEREAS, NANCY SMITH 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 NANCY SMITH 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 NANCY SMITH 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 24th day of May, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:



MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-259**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND HASHEM NARAGHI, TRUSTEE OF THE NORA NARAGHI SEPARATE PROPERTY TRUST, FOR IMPROVEMENTS ON ROSELLE AVENUE BETWEEN KODIAK AND FLOYD 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)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust (“Developer”) has agreed to install certain improvements on Roselle Avenue between Kodiak and Floyd, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“agreement”) between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$327,523.00, and

WHEREAS, 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 modified by the 1994 Final Supplemental 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:

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust (“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 .
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.



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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-260**

**A RESOLUTION APPROVING AMENDMENT NO. 1 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. 1 TO THE AGREEMENT IN AN  
AMOUNT NOT TO EXCEED \$59,956**

WHEREAS, Setrok Limited Partnership has applied for a general plan amendment and rezoning to a planned development zone to allow 202,225 square feet of specialty retail shops and restaurants, a 73,000 square foot multi-screen theater, 98,050 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, during preparation of the Draft EIR issues arose that required additional analysis and services beyond the scope of the Agreement, requiring an amendment to the Agreement in an amount not to exceed \$59,956.

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 Jones and Stokes to perform additional tasks related to the preparation of the Draft EIR, in an amount not to exceed \$59,956, 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 regular meeting of the Council of the City of Modesto held on the 24th day of May, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-261**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT A REQUEST FOR BIDS (RFB) FOR ROCK, SAND, AND  
GRAVEL FOR A TWO-YEAR PERIOD, WITH THREE (3), ONE-YEAR  
CONTRACT EXTENSION OPTIONS FOR AN ESTIMATED TOTAL ANNUAL  
COST OF \$200,000**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of rock, sand, and gravel for FY 2005/2006, and

WHEREAS, the Central Stores unit of the Finance Department will stock rock, sand, and gravel for use by City departments for rock well drainage, sand for parks, street maintenance operations and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7100-120-8311-0439 and departments will then purchase the rock sand and gravel from Central Stores with charges being made to appropriate accounts, and

WHEREAS, based on past usage and current pricing, the total cost for rock, sand, and gravel requirements for FY 2006 is approximately \$200,000, and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications and the need for said materials through collaboration with Central Stores staff and division personnel based upon usage over the last several years, and

WHEREAS, by soliciting competitive bids, the Finance Department-Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, and Formal Bid Procedures,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids (RFB) for rock, sand, and gravel as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for rock, sand, and gravel 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 24<sup>th</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-262**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR ONE (1), NEW, CURRENT YEAR/MODEL, SELF-PROPELLED PAVER  
TO HERRMANN EQUIPMENT INC. OF ROSEVILLE, CA. IN THE  
APPROXIMATE PURCHASE AMOUNT OF \$281,027.91**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of one (1), new, current year/model, self-propelled paver, and

WHEREAS, the new paving machine will provide the Streets Division with a large paving machine that will meet the City of Modesto's growing challenge to maintain and rebuild Collector and Arterial Streets in addition to the many residential streets and alleys, and

WHEREAS, the Public Works staff compiled the specifications for the new self-propelled paver after many hours of market research to try and incorporate the highest level of both performance and safety related features in a single bid specification, and

WHEREAS, Resolution No. 2004-377 authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for vehicles and equipment, which included one (1), self-propelled paver, and

WHEREAS, the Purchasing Division solicited formal bids for one (1), new, current year/model self-propelled paver on RFB 0405-13, and

WHEREAS, out of twelve (12) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, the City's two (2%) local vendor preference was not a factor in determining the lowest responsive and responsible bidder for one (1), new, current year/model self-propelled paver, and

WHEREAS, Herrmann Equipment Inc. of Roseville, CA. was the only responsive and responsible bidder with a total approximate amount of \$281,027.91, and

WHEREAS, the Herrmann Equipment Inc. self-propelled paver is the only unit bid which met the desired performance specifications of producing a crown of not less than three inches, is hydraulic adjustable by electric finger-tip control, and also complies with the performance and safety specifications listed below, and

WHEREAS, bids received for Nixon-Egli Equipment and Ingersoll-Rand Equipment are considered to be non-responsive because they did not meet the following performance and safety specifications as required in Request for Bid 0405-13:

- Both bids did not meet the specification for an oscillating truck hitch, and this hitch contributes toward the safe operations and a high quality road surface.
- Both bids took an exception to specification for a Frame Rise Option, which allows the paver to move around paving obstacles quickly and safely and provides for safest operations for loading and unloading on trailers. This performance feature saves staff from having to manually compensate by actually having to build asphalt tramps to navigate around obstacles.
- Both paver bids will not adjust to pave 8 feet to 16 feet wide without additional attachments. The ability to move materials out to 16 feet wide without manual adjustments allows for increased productivity levels.

- Both pavers bid do not have a telescopic 12-inch Catwalk that extends in and out to the fill width of the screed automatically. This desired option enhances safety and increased productivity.
- The paver bid by Nixon-Egli and Ingersoll-Rand does not have a De-Track warning light with an electric over-ride switch. This option warns operator to stop the machine before a track is lost off of rollers and this feature reduces subsequent damage and increases productivity and safety, and.

WHEREAS, the City Council has appropriated funds in account 7210-480-5814-5228,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for one (1), new, current year/model, self-propelled paver from Herrmann Equipment Inc. of Roseville, CA. in the approximate amount of \$281,027.91.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for one (1) new, current year/model, self-propelled paver as set forth herein.



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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-263**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR VIDEO TELEPHONE HARDWARE TO PACIFIC BELL TELEPHONE  
DBA SBC DATACOMM, INC OF MODESTO, CA. IN THE APPROXIMATE  
AMOUNT OF \$119,024.06**

WHEREAS, the Information Technology Department had requested the purchase of video telephone hardware, and

WHEREAS, Resolution No. 2004-535 authorized the Purchasing Supervisor to solicit formal Request for Bids (RFB) for video telephone hardware, and

WHEREAS, as part of the City of Modesto's Franchise Agreement with Comcast, Comcast is to develop a citywide fiber-based institutional network (INET) to be utilized by the City of Modesto and several participating school districts, and

WHEREAS, the construction of the INET is complete and is now in validation testing, and

WHEREAS, as stated in the Franchise Agreement, Comcast is scheduled to remove the existing coax-based INET, which will terminate the Modesto Fire Department's (MFD) current video training and communications abilities, and

WHEREAS, during FY03/04 staff encumbered a portion of the total project cost in anticipation of purchasing the necessary pieces of equipment to replace this system, and

WHEREAS, specifically the MFD encumbered \$150,000 in funding for the purchase of this equipment, and

WHEREAS, the City Council has appropriated funds in account number 0100-180-1802-5400 (FIRE SUPPORT SERVICES) for video telephone hardware, and

WHEREAS, the Modesto Municipal Code, MMC Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000 for materials, equipment, or contractual services to be formally bid. 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))). The video telephone hardware received said approval with Resolution No. 2004-535. This award of bid and contract will conform to code, and

WHEREAS, the Purchasing Division solicited formal bids for video telephone hardware on Request for Bid (RFB) 0405-32, and

WHEREAS, out of eight (8) vendors solicited, four (4) chose to respond to the RFB, and

WHEREAS, two bidders were deemed to be non-responsive because they only submitted one signed original bid document, and

WHEREAS, Pacific Bell Telephone dba SBC DataComm of Modesto, CA. is deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract to Pacific Bell Telephone dba SBC DataComm of Modesto, CA. in the approximate amount of \$119,024.06.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Pacific Bell Telephone dba SBC DataComm for video telephone hardware in the approximate amount of \$119,024.06.

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 May, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JHAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-264**

**A RESOLUTION AUTHORIZING STAFF TO: 1) DECLARE A PORTION OF THE CITY-OWNED PROPERTY (APN 111-057-020) FORMERLY KNOWN AS THE JOHN MUIR SCHOOL AND THE ATTACHED PARKING LOT AREA AS SURPLUS PROPERTY; 2) REQUEST AND PROCESS A PARCEL SPLIT OF THE PROPERTY TO SEPARATE T.B. SCOTT PARK FROM THE BUILDING AND ITS PARKING LOT; AND, 3) PROCEED WITH AN APPRAISAL AND CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY**

WHEREAS, the City of Modesto owns the property at 800 Morris Avenue (APN 111-057-020), and

WHEREAS, a portion of the property has been used as a Community Center for the City of Modesto and a portion of the property is T.B. Scott Park, and

WHEREAS, the Modesto Community Service Center building has been decommissioned because City staff has identified the building as being in very poor shape with asbestos and seismic problems, and

WHEREAS, City of Modesto staff is interested in splitting the parcel and maintaining the park property, and selling the portion of the property that contains the building and parking lot, and

WHEREAS, City of Modesto staff is interested in appraising the property and listing the property with a real estate firm for sale, and

WHEREAS, the Finance Committee met on April 25, 2005, and supported staff's recommendation to sell the portion of the property that houses the Modesto Community Service Center building and the adjacent parking lot,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Modesto hereby authorizes staff to declare a portion of the City-owned property (APN 111-057-020) consisting of the former John Muir School and the attached parking lot as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes City staff to request and process a parcel split of the property to separate T.B. Scott Park from the building and its parking lot.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to proceed with an appraisal and contract for real estate services for the sale of this property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-265**

**RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS IN THE AMOUNT OF \$250,000,  
TO BE UTILIZED FOR INET EQUIPMENT PURCHASES AND RELEASE OF  
RFP**

WHEREAS, as part of the City of Modesto's franchise agreement with Comcast, Comcast is to develop a citywide fiber INET to be utilized by the City of Modesto and several participating school districts, and

WHEREAS, the construction of the INET is complete and is currently undergoing validation testing, and

WHEREAS, the INET will not be functional until the City and its participants are able to acquire and install equipment that will allow communications to flow between facilities connected to the INET, and

WHEREAS, during FY03/04 staff encumbered a portion of the total project cost in anticipation of purchasing several of the necessary pieces of equipment, and

WHEREAS, On October 12th 2004, Council approved the use of this funding for the first phase of the INET implementation, which provides for service to all Fire Stations, and

WHEREAS, additional funding in the amount of \$250,000 is required to "light-up" the remaining 26 City sites providing high-speed data connectivity and the framework for future advanced services, and

WHEREAS, the City will save \$96,000 annually through the disconnection of voice and high speed data circuits, and

WHEREAS, this action is consistent with existing policies and the City's Strategic Plan, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to formally solicit Request for Bids in the amount of \$250,000, to be utilized for INET equipment purchases as follows"

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for INET equipment purchases to be opened in the offices 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 said bids are opened, they shall be tabulated, analyzed and a report submitted to the City Council.

The foregoing resolution was introduced at a regular meeting of the Council held on the 24<sup>th</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-266**

**A RESOLUTION AMENDING RESOLUTION NO. 2004-341 AUTHORIZING  
SEVERANCE PAY, HEALTH BENEFITS AND INTERVIEW LEAVE FOR  
EMPLOYEES SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE  
THROUGH JUNE 30, 2006**

WHEREAS, by Resolution No. 2004-341 which was adopted on July 6, 2004, the City Council authorized Severance Pay, Health Benefits and Interview Leave for Employees subject to an authorized reduction in force, and

WHEREAS, said Severance Benefits, as set forth in Resolution No. 2004-341 will terminate effective June 30, 2005, and

WHEREAS, the City of Modesto continues to face a budget crisis which may result in employee layoffs, and

WHEREAS, the City Council desires to extend the terms set forth in Resolution No. 2004-341 to extend Severance Pay, Health Benefits and Interview Leave for employees subject to an authorized reduction in force through June 30, 2006, and

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

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

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

WHEREAS, City staff is recommending that where an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff, the City manager may authorize said employee to be laid off, with all rights to receive severance benefits,

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

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

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

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

A. 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 cashout or conversion to any other benefit.

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

SECTION 9. Term: Severance benefits, as set forth in this Resolution shall terminate effective June 30, 2006, 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 24th day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

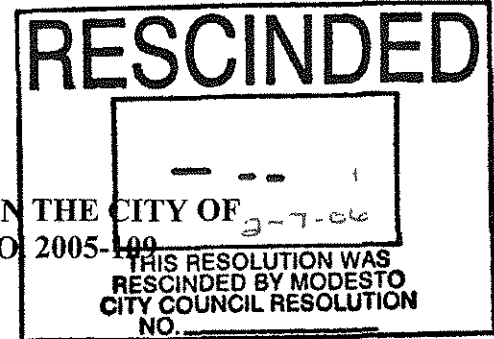
ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-267**

**A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF  
MODESTO AND RESCINDING RESOLUTION NO. 2005-100**



WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code 2006-81

authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff identified the south side of M Street between 9th and 13th Streets and the east side of 10<sup>th</sup> Street between L and M Streets as locations to install angle parking 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 the south side of M Street between 9th and 13th Streets and on the east side of 10<sup>th</sup> Street between L and M Streets without creating a hazard and without impeding traffic flow, and

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)
- 16<sup>th</sup> Street between H Street and I Street (east side) (diagonal)
- M Street between 9<sup>th</sup> Street and 13<sup>th</sup> Street (south side) (diagonal)
- 10<sup>th</sup> Street between L Street and M Street (east side) (diagonal)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2005-109 is hereby rescinded.

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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-268**

**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 2005-06.
2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that

the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

- a. Street medians in Creekwood Drive
- b. Areas adjacent to the access control walls along Creekwood Drive
- c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 12th day of July, 2005, 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 24<sup>th</sup> day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-269**

**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 2005-06.
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 Tuesday, the 12<sup>th</sup> day of July, 2005, 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 24th day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-270**

**A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS, EXCEPT LANDSCAPING AND IRRIGATION AND ROSELLE AVENUE IMPROVEMENTS, IN THE VILLAGE RANCH UNIT 1 SUBDIVISION 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 12.253 acres, known as the VILLAGE RANCH UNIT 1 SUBDIVISION (“SUBDIVISION”), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on August 7, 2003, 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 has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Public Works Director has certified that all public improvements, except Landscaping and Irrigation Improvements and the Roselle Avenue CFD

Improvements, required by the City of Modesto have been completed in said tract to the satisfaction of the Public Works Director, and

WHEREAS, the Subdivider has provided a security in the amount of \$57,866.67 to secure faithful performance and payment for labor and materials for completion of the Landscaping and Irrigation Improvements, and

WHEREAS, the Subdivider is entering into a CFD agreement with the City of Modesto for the Roselle Avenue Improvements and pursuant to that agreement, has provided securities to secure faithful performance and payment for labor and materials for completion of the Roselle Avenue Improvements.

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

1. The final map is hereby approved.
2. The dedications for streets and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.
3. The improvements, except Landscaping and Irrigation Improvements and Roselle Avenue Improvements, completed in the Village Ranch Unit 1 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements which are being accepted.
4. The City Clerk is hereby 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.

5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.
6. The City Clerk is further authorized to release the warranty security to guarantee improvements in the amount of \$92,292.22 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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-271**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE FLOYD AVENUE IMPROVEMENTS PROJECT, AWARDED THE BID AND APPROVING A \$2,354,573.40 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT ENTITLED "FLOYD AVENUE IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, on February 8, 2005, the City Council approved an update to the Village One Facilities Prioritization List; said update includes combining a portion of the Oakdale/Floyd intersection project with the proposed Floyd Avenue widening project, and

WHEREAS, City staff has reviewed the plans and specifications for the Floyd Avenue Improvements project and recommends approval to the City Council, and

WHEREAS, the bids received for the FLOYD AVENUE IMPROVEMENTS project were opened at 11:00 a.m. on April 5, 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 \$2,354,573.40 received from GEORGE REED, INC., be accepted as the lowest responsible bid and the contract be awarded to GEORGE REED, INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Floyd Avenue Improvements project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$2,354,573.40, and hereby awards GEORGE REED, INC., the contract entitled "FLOYD AVENUE IMPROVEMENTS."

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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, Hawn,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-272**

**A RESOLUTION ACCEPTING THE WORK BY T & S CONSTRUCTION CO., INC., FOR THE "VILLAGE ONE STORM DRAINAGE IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$2,783,888.20 PER THE CONTRACT. TOTAL PROJECT COST IS \$3,139,850.75**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Village One Storm Drainage Improvements" has been completed by T & S Construction Co., Inc., in accordance with the contract agreement dated June 10, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Village One Storm Drainage Improvements" project be hereby accepted from said contractor, T & S Construction Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$2,783,888.20 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 24th day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-273**

**A RESOLUTION ESTABLISHING LOCAL LIMITS IN THE FORM OF  
MAXIMUM ALLOWABLE HEADWORKS LOADING (MAHL) FOR  
DISCHARGE OF MOLYBDENUM INTO THE CITY'S WASTEWATER  
SYSTEM AND TO PROVIDE REGULATION THROUGH PERMITS AND  
ENFORCEMENT**

WHEREAS, the City of Modesto is the owner of a Publicly Owned Treatment Works (POTW) for the treatment of wastewater discharged into the POTW system by users within the City of Modesto, and

WHEREAS, the City of Modesto is authorized by state and federal law, including but not limited to Chapter 40 of the Code of Federal Regulations, to enact Local Limits on discharge of pollutants and constituents of wastewater to the POTW, and

WHEREAS, the City of Modesto has an existing Sewage Collection and Disposal Ordinance which authorizes the City Council to adopt specific pollutant limitations regarding waste characteristics and constituent limits and prohibits any person from discharging wastewater to the City Sewer System which contains constituents in excess of any specific constituent level as may be set forth by the City Council pursuant to 40 CFR 403.5(b), (c) and (d), and

WHEREAS, the Regional Water Quality Control Board (Regional Board) issued a Cease and Desist Order (No. 5-01-121) to the City of Modesto on May 11, 2001 with regard to establishing an effluent limit in connection with the amount of molybdenum processed by the City of Modesto Public Works Wastewater Treatment Facility, and

WHEREAS, the Regional Board provided the City with a five-year time schedule

to develop source control measures to meet the established molybdenum effluent limitations, and

WHEREAS, a Maximum Allowable Headworks Loading (MAHL) not to exceed 1.0 pound per day of molybdenum is the recommended Local Limit, which was developed and based upon the Wastewater Treatment Facility's operational ability to treat molybdenum to a level which will consistently meet the Regional Board's imposed effluent limitations, and

WHEREAS, discharge permits will be issued by the City to all controllable sources of molybdenum to regulate these discharges in order to meet the Regional Board's discharge requirements, and

WHEREAS, any permitted user which violates its local limit on 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 considered this item at its meeting of May 9, 2005, 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 Publicly Owned Treatment Works owned by the City of Modesto shall issue discharge permits to all controllable sources of 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 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 1.0 pounds per day of molybdenum from all permitted sources.

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

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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-274**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
COMMUNITY GATEWAY PROJECT, AWARDDING THE BID AND  
APPROVING A \$396,907 CONTRACT WITH GROVER LANDSCAPE  
SERVICES, INC., FOR THE PROJECT TITLED, "COMMUNITY GATEWAY,"  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the Community Gateway project was previously bid on August 17, 2004; the sole bidder was 44% over bid and said bid was rejected by the Council, and

WHEREAS, modifications were made to the plans, and the landscape architect's estimate was adjusted to meet the current construction climate, and

WHEREAS, City staff has reviewed the plans and specifications, for the Community Gateway project and recommends approval to the City Council, and

WHEREAS, the bids received for "Community Gateway" were opened at 11:00 a.m. on April 19, 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 \$396,907 received from Grover Landscape Services, Inc., be accepted as the lowest responsible bid and the contract be awarded to Grover Landscape Services, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Community Gateway project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$396,907, and hereby awards Grover Landscape Services, Inc, the contract titled "Community Gateway."

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 May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-275**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT FY  
2005 BUDGET TO RE-ESTABLISH THE ACCOUNT 2300-480-N489  
COMMUNITY GATEWAY, FUNDED BY \$305,020 FROM FEDERAL  
TRANSPORTATION ENHANCEMENT ACTIVITIES PROGRAM; AND  
\$158,454 FROM OPERATING ACCOUNTS 0700-410-4120 (STREET  
MAINTENANCE) AND 0700-430-4380 (SLURRY SEAL) TO FULLY FUND A  
CONTRACT WITH GROVER LANDSCAPE SERVICES, INC., FOR THE  
CONSTRUCTION OF THE COMMUNITY GATEWAY PROJECT**

WHEREAS, a Capital Improvement account 2300-480-N489 needs to be re-established for the Community Gateway project, and

WHEREAS, certain budgetary transactions are necessary to fully fund the contract for said project, and

WHEREAS, \$305,020 is to be transferred from Federal Transportation Enhancement Activities Program, and

WHEREAS, \$35,000 is to be transferred from operating accounts 0700-410-4120, and

WHEREAS, \$123,454 is to be transferred from operating accounts 0700-430-4380,

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 \$396,907 contract with Grover Landscape Services, Inc., for the Community Gateway project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-276**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR PROFESSIONAL ASSISTANCE FOR THE WASTEWATER TREATMENT PLANT (WWTP) NPDES PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER FOR A TWO-YEAR PROFESSIONAL SERVICES AGREEMENT, NOT TO EXCEED \$242,000, WITH OPTIONS FOR TWO (2), ONE-YEAR RENEWALS, NOT TO EXCEED \$100,000 EACH YEAR, SHOULD NPDES ISSUES WITH THE REGIONAL BOARD NOT BE RESOLVED**

WHEREAS, the treated effluent from the City's wastewater stream is discharged to the San Joaquin River and this discharge is regulated by the state through Federal National Pollutant Discharge Elimination System (NPDES) permit, and

WHEREAS, this permit has a renewal term of five years and is due for renewal in May of 2006, and the renewal process is initiated by the Regional Water Quality Control Board (Regional Board), and

WHEREAS, the current permit includes specific "effluent limitations" that are typically reflected as maximum allowable discharge concentrations for certain constituents, and

WHEREAS, the State Implementation Plan also allows the City to perform additional water quality studies related to permit compliance and effluent limitations, and

WHEREAS, to provide the best available science for the permit renewal process, the City needs to collect data and perform several additional water quality studies, and

WHEREAS, these studies will be performed in two phases to initially determine if completion of the study beyond initial "range-finding" is necessary, and

WHEREAS, professional services are essential for the City to continue meeting the NPDES Permit requirements and for successful negotiations with the Regional Board during the 2006 permit renewal process, and

WHEREAS, the Economic Development Committee considered this item at its May 9, 2005, 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 it hereby authorizes the Public Works Department, Water Quality Control Division to solicit proposals for professional assistance for the WWTP NPDES permit for discharge to the San Joaquin River for a period of two years, not to exceed \$242,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes an option for two (2), one-year renewals, not to exceed \$100,000 each year, should NPDES issues with the Regional Board not be resolved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

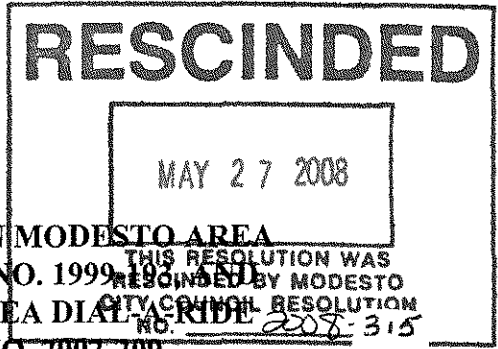
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-277**

**A RESOLUTION AMENDING PASSENGER FARES ON MODESTO AREA EXPRESS (MAX) AND RESCINDING RESOLUTION NO. 1999-193 AND AMENDING PASSENGER FARES ON MODESTO AREA DIAL-A-RIDE (MADAR) AND RESCINDING RESOLUTION NO. 2002-209**

WHEREAS, passenger fares for Modesto Area Express (MAX) covers approximately 25% of the operating expenses for the urban bus route, and

WHEREAS, Modesto Area Dial-A-Ride (MADAR) passenger fares cover approximately 9% of the operating costs for Dial-A-Ride services, and

WHEREAS, Local Transportation Fund (LTF) monies cover 80% of the remaining costs and the balance of 20% is covered by Federal Transit Administration (FTA) funds, and

WHEREAS, MAX fares were last raised in July 1999 by Resolution No. 1999-193 and MADAR fares were last raised in June 2002 by Resolution No. 2002-209 to their current levels, and

WHEREAS, the Council Economic Development Committee recommended approval of a 5.9% increase for MAX and MADAR at it's February 7, 2005 meeting, and

WHEREAS, after this action, it became apparent that Gas Tax funds projected in FY 2005/06 for street maintenance would be significantly lower than necessary to maintain even a minimum level of street maintenance, and

WHEREAS, increasing fare revenue is one way to reduce the amount of LTF funds used for Transit and increasing the funds available for street maintenance, and



WHEREAS, staff returned to the Council Economic Development Committee on April 11, 2005 with an revised fare increase proposal for MADAR cash fares and most MAX fare categories, and an increase of 42.3% for DAR ticket books respectively, and

WHEREAS, the Council Economic Development Committee recommended approval of this revised proposal at their April 11, 2005 meeting, and

WHEREAS, this revised proposal is projected to increase fare revenue by \$240,000 annually, and

WHEREAS, approximately \$192,000 of LTF funds become available for street maintenance as a direct result of this fare increase, and

WHEREAS, a duly noticed public hearing was held by the Council on May 10, 2005, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposed fare increases for the MAX and MADAR services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fare increases for MAX and MADAR services be approved:

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<b>MODESTO AREA EXPRESS</b>	
<b>Urban Service</b>	
<hr/>	
Cash Fares (one trip)	
Regular	\$1.00
Student	\$0.85
Senior/Disabled	\$0.50
Day Pass (unlimited trips)	\$2.50
Student Field Trip	\$0.45
Monthly Passes (unlimited trips)	
Regular Monthly Pass	\$39.00

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Student Monthly Pass	\$29.00
Senior/Disabled Monthly Pass	\$19.00
Ticket Books (50 Tickets)	
Regular	\$50.00
Student	\$42.50
Commuter	Eliminate
Senior/Disabled	\$25.00

**MODESTO AREA DIAL-A-RIDE**

Cash	\$2.00
Ticket Book (10 Tickets)	\$16.00

BE IT FURTHER RESOLVED by the Council of the City of Modesto that this resolution shall go into effect on and after August 1, 2005.

BET IT FURTHER RESOLVED by the Council of the City of Modesto that Resolutions No. 199-193 and 2002-209 are hereby rescinded effective July 31, 2005.

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 May 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

ATTEST: *Jean Zahr*  
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: *Michael D. Milich*  
 MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-278

**AMENDED**  
on Mar. 22, 2011  
By Resolution 2011-106

**A RESOLUTION ADOPTING AN ANNUAL COST OF LIVING ADJUSTMENT  
FOR BUILDING PERMIT FEES, AND AMENDING RESOLUTION NOS.  
89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, AND 2003-446**

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, the City Council of the City of Modesto has adopted various ordinances and resolutions authorizing the establishment of development user fees, 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, collectively, the above fees are included in those fees referred to as “Development User Fees”, which are charged by the City of Modesto to pay for the cost of various development services provided by City staff, and

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

WHEREAS, Resolution 2003-446 adopted or amended current building permit fees and other development user fees for the City of Modesto and included an annual cost of living adjustment for some of those fees using 4<sup>th</sup> quarter figures of the Department of Labor’s

Employee Cost Index-Compensation Component for State and Local Government, and

WHEREAS, this annual cost of living adjustment was not adopted for building permit fees, and

WHEREAS, building permit fees have not been adjusted for inflation since August, 2003, and

WHEREAS, the Finance Committee recommended approval of the adoption of an annual cost of living adjustment for building permit fees on April 18, 2005, and

WHEREAS, the Finance Committee also recommended that the annual cost of living adjustment for building permit fees become effective July 1, 2005 and include the cost of living increase implemented on July 1, 2004, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 24, 2005, 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 for the purpose of receiving public comments, and

WHEREAS, on May 24, 2005, by Resolution No. 278 the City Council adopted a policy of automatic annual adjustment for building permit fees, based on the increased cost of providing the service brought on by inflation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an annual cost of living adjustment for building permit fees, and that Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, and 2003-446 be amended as follows:

All Building Permit Fees shall be automatically adjusted annually, in accordance with changes in the Department of Labor's Employee Cost Index-Compensation

Component for State and Local Government. The adjustment shall be made and published annually on or before July 1<sup>st</sup> of each year, by the Finance Department.

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.

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 May 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-279**

**A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2005-2006  
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 the Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME), and Emergency Shelter Grant (ESG) from the U. S. Department of Housing and Urban Development (HUD), and

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

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its May 6, 2005, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council at its meeting of May 24, 2005, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2005-2006 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 2005-2006 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 2005-2006 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 24<sup>th</sup> day of May 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-280**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT  
TO PRIORITY ONE MEDICAL TRANSPORT FOR NON-EMERGENCY  
MEDICAL TRANSPORT IN THE CITY OF MODESTO**

WHEREAS, Priority One Medical Transport has submitted an application to provide non-emergency medical transport within the City of Modesto, and

WHEREAS, Priority One Medical Transport has paid the required \$1,000.00 filing fee and has provided all necessary information as outlined in Modesto Municipal Code Section 3-9.03, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on May 24, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider authorizing the issuance of a permit to Priority One Medical Transport for a non-emergency medical transport within the City of Modesto, and

WHEREAS, Modesto City Council approval is required for Priority One Medical Transport to function as a non-emergency medical transport service within the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED that based on the testimony in the public hearing and the investigation by the Modesto Police Department, that the Council finds as follows:

- (a) That the vehicles described in the application and proposed to be used are appropriate for the purpose of nonemergency transport.

- (b) That the color scheme, insignia, name, monogram or other distinguishing characteristics proposed to be used upon such nonemergency transport vehicles is not in conflict with and do not imitate any color scheme, insignia, name, monogram or other distinguishing characteristics used by any other person, in such manner as to mislead or tend to mislead, deceive, or defraud the public.
- (c) That the applicant is fit, willing and able to perform nonemergency transport service and to conform to the provisions of the Modesto Municipal Code.
- (d) That the proposed nonemergency transport service is required by the public convenience and necessity.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of a permit to Priority One Medical Transport for non-emergency medical transport within 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<sup>th</sup> day of May 2005 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, Jackman, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-281**

**A RESOLUTION ACCEPTING THE FORESIGHT CONSULTING REPORT ON  
WATER CONNECTION FEES AND APPROVING REEVALUATION OF  
CONNECTION FEES NO LESS OFTEN THAN EVERY THREE YEARS**

WHEREAS, on November 23, 2004 Council adopted Resolution 2004-627 which rescinded all previous water fee resolutions, established a single-rate base and established fees associated with water operations and management, and

WHEREAS, as part of the November 23, 2004 action, Council directed staff to move forward with an analysis of the City's water connection fees in order to ensure equity across the system so that current ratepayers are not unfairly burdened with the costs of providing water to future customers, and

WHEREAS, on January 18, 2005, Foresight Consulting made an oral presentation to the Council Finance Committee on the proposed connection fee components and fees, and

WHEREAS, Foresight presented a draft report which included three components: 1) Buy-In; 2) Phase II Treatment Plan, Downstream Improvements and Other Facilities; and 3) Additional future Capital Improvements and a draft fee structure, and

WHEREAS, City staff met with representatives from the Building Industry Association (BIA) to discuss their concerns with the proposed fees and methodology, and

WHEREAS, City staff also held a general stakeholders meeting with interested parties on the proposed connection fees, and

WHEREAS, based on feedback provided by BIA and other parties, Foresight Consulting and City staff recommended adoption of the following new connection fees to the Council Finance Committee on April 25, 2005:

Meter Size	Connection Fee
5/8 inch	\$1,960
1 inch	\$4,900
1.5 inch	\$9,800
2 inch	\$15,680
3 inch	\$31,360
4 inch	\$49,000
6 inch	\$98,000
8 inch	\$156,800
10 inch	\$225,400
12 inch	\$421,400

, and

WHEREAS, Foresight Consulting further recommended an annual inflator tied to the Engineering Construction Cost Index as utilized by the Capital Facilities Program and reevaluation of the connection fees every three (3) years, and

WHEREAS, the Council Finance Committee accepted the Foresight report on Water Connection Fees, the inflator and associated reevaluations no less often than every three years and recommended this be forwarded to the City Council at its April 25, 2005 meeting, and

WHEREAS, Council has adopted the foregoing fees as part of a separate resolution amending and restating Resolution No. 2004-627,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Foresight Consulting report on water connection fees.

BE IT FURTHER RESOLVED that these water connection fees will be reevaluated every three (3) years in conjunction with the City's Water Rate Analysis.

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 May 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-282**

**A RESOLUTION AMENDING SECTIONS 10 AND 14  
OF RESOLUTION NO. 2004-627 ENTITLED “A  
RESOLUTION RESCINDING ALL PREVIOUS  
WATER FEE RESOLUTIONS, ESTABLISHING A  
SINGLE RATE BASE, AND ESTABLISHING FEES  
FOR THE PROVISION OF WATER AND ALL FEES  
ASSOCIATED WITH WATER OPERATIONS AND  
MANAGEMENT”**

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (MMC) authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627 rescinding all previous water fee resolutions, establishing a single rate base, and establishing fees for the provision of water and all fees associated with water operations and management, and

WHEREAS, on April 26, 2005, the City Council adopted Resolution No. 2005-204 amending Sections 3 and 14 of Resolution No. 2004-267 to clarify that water connection charges are actual hookup fees and are not land based, and

WHEREAS, a study of water system connection fees by Foresight Consulting has been completed, and

WHEREAS, the study proposes new fees in order to ensure equity across the system so that current ratepayers are not unfairly burdened with the costs of providing water to future customers, and

WHEREAS, Resolution No. 2004-627 is hereby amended solely with respect to Sections 10 and 14, and

WHEREAS, Resolution No. 2004-627 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 Council of the City of Modesto as follows:

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System ("System") - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a



variable component including the distribution of estimated costs of service obligations allocated to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity charges, and include all deficiency charges.

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

F. MMC - Modesto Municipal Code.

G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-35 day month commencing from date of initiation of water service, and continuing until water service termination. The Finance Director, or designee, shall have the authority to, from time to time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO THE RATEPAYER. In accordance with law, the charge for all water delivered by the System shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall consist of two components: fixed costs, such as those for billing, meter reading where applicable, and other general overhead, and variable costs, such as proportionate costs of the acquisition and transmission of water, removal of deficiencies, higher operating and maintenance costs apportioned to ratepayers with service demands requiring larger meters, and the costs of the

commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs. These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.
4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.

SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.

SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost "Justification and Cost Allocation for Proposed Water System Improvements Study", accepted by Council on September 14, 2004, that 74.2% of the City's water acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED CHARGES FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through

a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

Proposed Monthly Metered Water Rates (by meter size)					
	Year 1 1-Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
Volume-based Rate (\$/hcf)	\$0.84	\$1.01	\$1.16	\$1.22	\$1.28
Fixed Monthly Meter Charge (in addition to volume-based charges)					
5/8"-3/4" meter	\$9.01	\$10.82	\$12.44	\$13.06	\$13.71
1" meter	\$12.78	\$15.34	\$17.64	\$18.52	\$19.45
1-1/2" meter	\$22.13	\$26.55	\$30.53	\$32.06	\$33.66
2" meter	\$33.38	\$40.06	\$46.06	\$48.37	\$50.79
3" meter	\$63.43	\$76.12	\$87.53	\$91.91	\$96.51
4" meter	\$97.19	\$116.63	\$134.13	\$140.83	\$147.88
6" meter	\$190.95	\$229.14	\$263.51	\$276.68	\$290.51
8" meter	\$303.49	\$364.19	\$418.82	\$439.76	\$461.75
10" meter	\$434.84	\$521.80	\$600.07	\$630.08	\$661.58
12" meter	\$809.95	\$971.95	\$1,117.74	\$1,173.62	\$1,232.31

hcf = Hundred cubic feet

The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES. The charge for all water delivered from an unmetered service after December 31, 2004, has been cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

Proposed Monthly SFR Flat Water Rates*					
	Year 1 1 Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
0-5,000 sq. ft. lot	\$24.47	\$29.36	\$33.77	\$35.45	\$37.23
5,001-7,000 sq. ft. lot	\$27.81	\$33.37	\$38.38	\$40.30	\$42.31
7,001-11,000 sq. ft. lot	\$33.00	\$39.60	\$45.54	\$47.82	\$50.21
11,001-17,000 sq. ft. lot	\$35.03	\$42.04	\$48.34	\$50.76	\$53.30

Over 17,000 sq. ft.	\$41.19	\$49.42	\$56.84	\$59.68	\$62.66
lot					

SFR = Single Family Residential

\* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.

SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of "buying-into" the existing system, this will result in the establishment of connection charges.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or

variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance Demographics Research Unit.

SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

- (a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:  
Current Flat Rate for Smallest Lot Area +  
Current City Utility Tax x 4 months

- (b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on the full size of the lot unless the owners request the water to be turned off at the end of 120 days.
- (c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.
- (d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.
- (e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management services have been calculated and are hereby imposed as follows:



<b>USER FEES</b>	<b>AMOUNT</b>
Deposit	Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.
Disconnect	\$10.00
Reconnect	\$10.00
Late Payment Penalty	\$4.35
Returned Check	\$10.00
Collection Agency	\$16.50
Water Disconnection Notice (final notice mailed or doorhangers)	\$10.00
Unauthorized Reconnect (illegal on)	\$25.00
Lock Breakage/Lock Replacement	\$75.00
Disconnect Waterline at Main for Non-payment (line cut)	\$375.00

<b>DEVELOPMENT FEES</b>	<b>AMOUNT</b>
Connection Charge *1*3	
5/8" Service *2	\$1,960.00
1" Service	\$4,900.00
1.5" Service	\$9,800.00
2" Service	\$15,680.00
3" Service	\$31,360.00
4" Service	\$49,000.00
6" Service	\$98,000.00
8" Service	\$156,800.00
10" Service	\$225,400.00
12" Service	\$421,400.00
Water Main Installation Charge	\$18.00 per lineal foot of lot frontage
Water Service Installation Charge	
1" Service	\$1,108.00

1-1/2" Service	\$1,130.00
2" Service	\$1,156.00
4" Service	\$2,131.00
6" Service	\$2,131.00
8" Service	\$2,347.00
10" Service or larger	At Cost
<b>Water Meter Fee</b>	
1" Meter/New Service - pedestrian lid	\$115.00
1" Meter/New Service - traffic lid	\$176.00
1" Meter/Retrofit Service - pedestrian lid	\$520.00
1" Meter/Retrofit /Service - traffic lid	\$600.00
1-1/2" Meter with pedestrian lid	\$484.00
1-1/2" Meter with traffic lid	\$545.00
2" Meter with pedestrian lid	\$520.00
2" Meter with traffic lid	\$582.00
4" Meter	\$1,820.00
6" Meter	\$2,400.00
8" Meter	\$3,350.00
10" Meter or larger	At Cost
Pavement	\$439.00 for each trench
Parcel Reduction	\$37.00
Water Connection for Main extension	\$2,820.00
Reimbursement Agreement Preparation	\$175.00
Outside City Limits Agreement	\$35.00
Fire Hydrant Installation (each)	\$2,635.00
Fire Hydrant Line from Main per Lineal Foot	\$3.00
Pavement Replacement	\$439.00
Fire Main Test	\$90.00
Deposit to Install Meter on Fire Hydrant for Construction Water	\$500.00
Fire Hydrant Meter Use Deposit	\$500.00
Fire Service Installation Inspection/Test	\$90.00
Install 4" Single Check Valve	\$390.00

Install 6" Single Check Valve	\$479.00
Install 8" Single Check Valve	\$688.00
Voluntary Installation of Fire Sprinklers, Apartments	8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes, Townhouses	\$50.00

\*1 Connection charges effective 7/25/05. These charges will be reviewed and updated annually after fiscal year 2005-06 for inflation adjustments based on the engineering construction cost-index beginning July 1, 2006.

\*2 Single family residences qualify for the 5/8" connection fee only under the following conditions:

- Single story, single family residences on a lot of 4,000 square feet or less.
- Two-story single family residences on a lot of 4,000 square feet or less, provided the request for such a service is accompanied by a report from a licensed professional engineer (and approved by the Public Works Director) that certifies that the 5/8" service is adequate to meet the needs of the proposed dwelling.
- A 5/8" "service" shall not be allowed for single family dwellings of greater than 2 stories on lots less than 4,000 square feet.

\*3 Service upgrades shall be subject to the connection charge set forth in this resolution, less the amount of the connection charge set forth in this resolution for the size of the initial installation.

All Development fees shall be due and may only be paid at the time a building permit is issued. Development fees shall be calculated and collected based on the proportionate area of the parcel for which the building permit is being issued and/or the parcel is being developed and only for those connections required for actual issuance of the building permit. No other Development fees for the remainder of the parcel may be paid until further building permits are issued. For purposes of this paragraph the Public Works Director, or designee, shall determine the proportionate area of the parcel being developed. The decision of the Public Works Director in this regard shall be final.

SECTION 15. For purposes of supporting an exemption from CEQA pursuant to Section 15273(4) of the CEQA Guidelines, the City Council finds with respect to the water rates and connection charges set forth above, that they are for the following purposes:

- (a) Meeting operating expenses;
- (b) Purchasing or leasing supplies, equipment, or materials;

- (c) Meeting financial reserve needs and requirements; and
- (d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

SECTION 16. This resolution shall become effective on and after July 25, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-283

A RESOLUTION APPOINTING DOUG MOORE 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 9, 2005, and recommended appointment of DOUG MOORE to the Board of Building Appeals.

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

SECTION 1. DOUG MOORE is hereby appointed to the Board of Building Appeals 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 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 7th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-284**

**A RESOLUTION APPOINTING DIANE L. HERNANDEZ  
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 9, 2005, and recommended appointment of DIANE L. HERNANDEZ, a southwest area resident, to the Community Qualities Forum.

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

SECTION 1. DIANE L. HERNANDEZ, a southwest area resident, is hereby appointed to the Community Qualities Forum with term expirations 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 Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of June 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:   
JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-285**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN  
EMPLOYMENT AGREEMENT WITH JUDITH E. RAY TO SERVE AS  
DEPUTY CITY MANAGER AT AN ANNUAL SALARY OF \$122,400**

WHEREAS, Judith E. Ray has been serving in the acting capacity of Assistant to the City Manager since October 5, 2004, and as Acting Finance Director since April 12, 2005, and

WHEREAS, Section 900 of the City's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, the City desires to enter into an employment agreement with Judith E. Ray to serve as Deputy City Manager of the City of Modesto and to provide the terms and conditions by which City shall retain the service of Judith E. Ray at an annual salary of \$122,400.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to sign an employment agreement with Judith E. Ray to serve as Deputy City Manager of the City of Modesto at an annual salary of \$122,400. Said employment agreement is attached hereto as Exhibit A and incorporated herein by this reference.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## EMPLOYMENT AGREEMENT

This Agreement, made and entered into this 7th day of June, 2005 by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called, "CITY" and JUDITH E. RAY, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

### RECITALS:

WHEREAS, EMPLOYEE has been continuously employed by the CITY in the Classified Service, since June 8, 1982, and currently retains the classification of Deputy Director of Public Works, and

WHEREAS, EMPLOYEE has been serving in the acting capacity of Assistant to the City Manager since October 5, 2004, and as Acting Finance Director since April 12, 2005, and

WHEREAS, Section 900 of the CITY's Charter provides that the City Manager of Modesto, California, shall appoint the Deputy City Manager, in the Unclassified Service, to serve at the pleasure of the City Manager for an indefinite term, and may remove the Deputy City Manager at his pleasure, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall retain the service of EMPLOYEE and to provide for her to remain in such employment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

### Section 1. Duties

CITY hereby agrees to employ said Judith E. Ray as Deputy City Manager of said CITY to perform the functions and duties specified in the attached job description.

### Section 2. Term

- a. Effective June 7, 2005, EMPLOYEE shall be promoted to Deputy City Manager in the Unclassified Service, at the salary set forth herein and shall serve in this capacity until such time as EMPLOYEE terminates or resigns from the position of Deputy City Manager.
- b. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3, below.
- c. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as Deputy City Manager, subject only to the provisions set forth in Section 3, below.

### Section 3. Termination

- a. Notwithstanding any contrary provision of the Modesto Municipal Code and/or Personnel Rules of the City of Modesto, in the event the City Manager elects to terminate this agreement on or before October 5, 2006, said EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works, provided that such termination is for reasons other than good cause.
- b. In the event EMPLOYEE voluntarily resigns from the position of Deputy City Manager on or before October 5, 2006, EMPLOYEE shall have reinstatement rights to the classification of Deputy Director of Public Works.
- c. Termination of this agreement by either party after October 5, 2006 shall not provide for reinstatement to the classification of Deputy Director of Public Works or to any other position in the Classified Service.

### Section 4. Salary and Benefits

- a. CITY agrees to pay EMPLOYEE for her services rendered pursuant to this agreement a monthly base salary of \$10,200.00, payable in the installments at the same time as other employees of the CITY are paid. In addition, EMPLOYEE shall be granted salary increases within the salary range established by the City Council, based on merit and fitness as determined by the City Manager.
- b. EMPLOYEE shall be eligible for all benefits currently authorized by the City Council for non-sworn Executive employees, and as such benefits may be amended from time to time by Council.

### Section 5. 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:  
 City Manager  
 City of Modesto  
 1010 Tenth Street  
 P. O. Box 642  
 Modesto, CA 95353

EMPLOYEE:  
 Judith E. Ray  
 924 Gina Court  
 Escalon, CA 95320

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 the personal service or as of the date of deposit of such written notice in the course of transmission in the United State Postal Service.

Section 6. 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 7th day of June, 2005.
- 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 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. 2005-285, adopted by the Council of the City of Modesto on the 7th day of June, 2005, and EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO

By: 

GEORGE W. BRITTON  
City Manager

ATTEST:

By: 

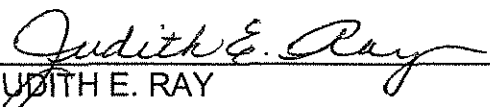
JEAN M. ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney

EMPLOYEE:

  
JUDITH E. RAY

DEPUTY CITY MANAGER

DEFINITION

To assist the City Manager in planning, organizing and directing the overall administrative activities and operations of the City; to coordinate activities among and with other departments; and to provide staff assistance to the City Manager and City Council.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the City Manager.

Exercises direct and indirect supervision over professional and clerical staff

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

Assist the City Manager in developing, planning, implementing and administering City-wide goals and objectives as well as policies and procedures necessary to provide City services; approve new or modified programs, systems, policies and procedures.

Provide direction and advice to City Department management; coordinate interdepartmental activities as well as City activities with outside agencies and organizations.

Assist the City Manager in directing the development and administration of the City's budget; analyze and forecast City revenue and expenditures; monitor and approve expenditures.

Participate in the City's labor relations activities; assist in developing labor relations objectives and strategies.

Direct, oversee and participate in a variety of activities within the City Manager's Office; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Perform or supervise comprehensive management analyses in a wide range of municipal policies, organization, procedures, budgetary and finance areas; prepare and present staff reports and other necessary correspondence.

Meet with members of the public including members of the business community and citizen groups to explain City policies, procedures, goals and objectives; negotiate agreements and resolve difficult City administration related problems and questions.

CITY OF MODESTO  
Deputy City Manager (Continued)

EXAMPLES OF DUTIES (Continued)

Provide staff assistance to the City Council, committees, commissions and the City Manager in matters related to a wide variety of City administration activities and programs.

Review and respond to citizen complaints or requests for information; oversee the preparation of City publications.

Train, motivate and evaluate staff; establish and monitor employee performance objectives; prepare and present employee performance reviews; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Assume overall administrative responsibility for all City activities in the absence of the City Manager.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Modern and highly complex principles and practices of municipal government administration; departments, organization, and economic development functions and services.

Principles of personnel administration, supervision and training.

Methods and techniques of public administration research, analysis and report preparation.

Principles and practices of municipal budget preparation and administration.

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

Ability to:

Select, supervise, train and evaluate professional staff.

CITY OF MODESTO  
Deputy City Manager (Continued)

Ability to: (Continued)

Interpret applicable laws, rules and regulations. Prepare and analyze fiscal and organizational reports, statements and correspondence.

Analyze, interpret, summarize and present administrative and technical information and data in an effective manner.

Develop, prepare and administer a large municipal budget.

Establish and maintain cooperative working relationships with City Council members, staff, committee members, public officials, business leaders and the general public.

Communicate clearly and concisely, both orally and in writing.

Experience and Training Guidelines

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

Experience

Six years of increasingly responsible municipal administrative experience including significant administrative and personnel management responsibilities.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with mayor course work in public or business administration or a closely related field. A Master's degree in public administration is highly desirable.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-286**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND MCHENRY-MODESTO, A CALIFORNIA LIMITED  
PARTNERSHIP, BEING A PORTION OF ASSESSORS PARCEL NO. 120-033-  
024, FOR THE WELL #21 EXPANSION PROJECT**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with the McHenry-Modesto, a California Limited Partnership for the Well #21 Expansion Project to purchase the necessary real property for the expansion of the Well site to construct wellhead treatment facilities, and

WHEREAS, real property needs to be acquired for this expansion project, and

WHEREAS, an agreement is needed for the acquisition of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an agreement between City of Modesto and McHenry-Modesto, a California Limited Partnership for the Well #21 Expansion Project, being a portion of Assessors Parcel No. 120-033-024, is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement 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 7<sup>th</sup> day of June, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

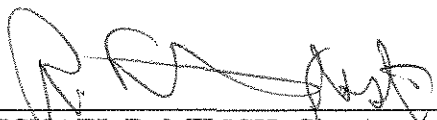
AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

Approved as to Form:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-287**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN  
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF  
PROPERTY OWNED BY MCHENRY-MODESTO, A CALIFORNIA LIMITED  
PARTNERSHIP, BEING A PORTION OF ASSESSORS PARCEL NO. 120-033-  
024, FOR THE WELL #21 EXPANSION 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 right of way from McHenry-Modesto, a California Limited Partnership, being a portion of Assessors Parcel No. 120-033-024 for the Well #21 Expansion Project.

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 a Grant Deed for the acquisition of property owned by McHenry-Modesto, a California Limited Partnership, being a portion of Assessors Parcel No. 120-033-024 for the Well #21 Expansion 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 June, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-288**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 7th day of June 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-251**

**A RESOLUTION APPROVING THE DRAFT FIVE-YEAR (2005-2009)  
CONSOLIDATED PLAN FOR THE USE OF COMMUNITY DEVELOPMENT  
BLOCK GRANT (CDBG), HOME PARTNERSHIP GRANT (HOME), AND  
EMERGENCY SHELTER GRANT (ESG) FUNDS, 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 U.S. Department of Housing and Urban Development (HUD) requires entitlement grantees to adopt a comprehensive, long-term plan for the use of HUD funds; the Five-Year Consolidated Plan analyzes the City's housing and community development needs, with a priority focus on low- and moderate-income individuals, households, and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of a broad policy framework, the Five-Year Consolidated Plan also addresses how the City will utilize funding from three different entitlement grants to meet those needs: the Community Development Block Grant (CDBG), the HOME Investment Partnership Grant (HOME), and the Emergency Shelter Grant (ESG); in general, these funds must be used to revitalize low-income neighborhoods, and to assist disadvantaged populations by providing adequate public facilities and services, generating affordable housing opportunities, and implementing effective strategies to reduce and end homelessness, and

WHEREAS, citizen participation is a key component of the consolidated planning process; the federal regulations implementing the three entitlement grants require that the City provide ample opportunity and means for the populations served by the grants, as well as the general citizenry, to provide input to the goals and priorities that should be

reflected in the plan, and the specific types of activities that will fund development of the community, and

WHEREAS, four community meetings on the Five-Year Consolidated Plan process were made available during February 2005; additionally, a presentation on the draft Five-Year Consolidated Plan has been presented to “Modesto’s Executive Team,” which consists of Department Directors from each City department, and all Charter Offices and support staff; finally, staff has worked with citizens to complete the “Citizens Survey,” and with service providers to complete the “Providers Survey;” all data was used in compiling information and making recommendations for funding priority in the Five-Year Consolidated Plan, and

WHEREAS, City staff has proposed the draft Five-Year Consolidated Plan as set forth in Exhibit “A” attached hereto and incorporated herein by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the draft Five-Year Consolidated Plan at its meeting on May 6, 2005, and the Committee recommended that the City Council approve the draft Five-Year Consolidated Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 10, 2005, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the draft Five-Year Consolidated Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the draft Five-Year (2005-2009) Consolidated Plan document as presented to the Council is hereby approved, and a copy of said draft Five-Year (2005-2009)

Consolidated Plan document 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 Five-Year (2005-2009) Consolidated Plan to be submitted to HUD.

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 May 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

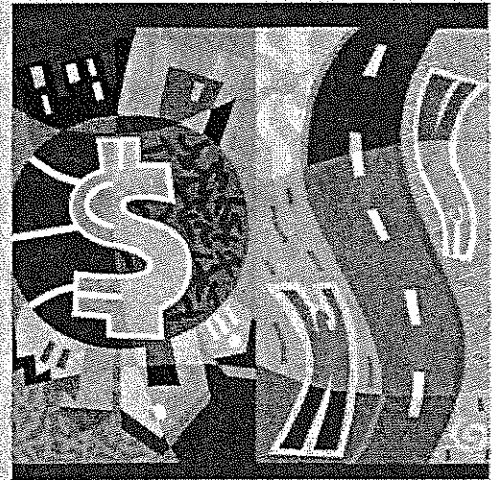
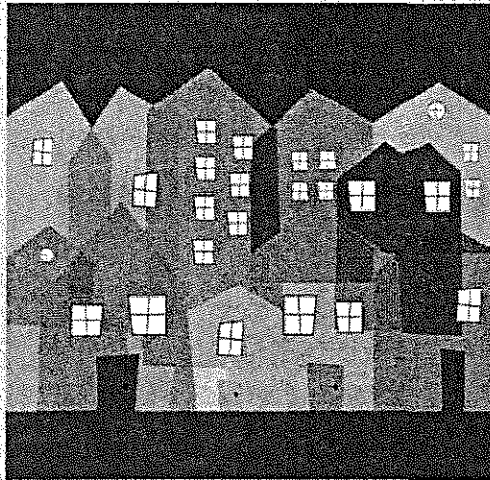
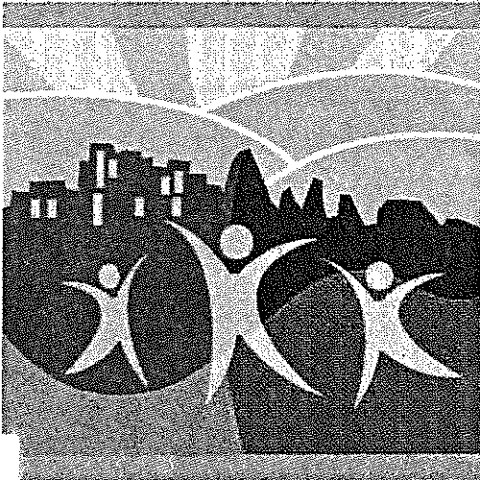
ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

# City of Modesto 2005–2009 Consolidated Plan Executive Summary



**Public Review Draft (April 2005)**



# City of Modesto

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## 2005 – 2009 Consolidated Plan Executive Summary

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Public Review Draft (April 2005)

Point of Contact:

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Department of Parks, Recreation and Neighborhoods  
(209) 577-5417

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TCB | AECOM

## Introduction

### Purpose of the Plan

*The Consolidated Plan directs the City's investment of federal funds to meet priority needs for housing, public services, and community and economic development*

The City of Modesto (City) receives funds each year from the federal government for housing and community development activities.<sup>1</sup> These funds are intended to meet priority needs locally identified by the City. To receive these federal funds, the City must submit a strategic plan—the Consolidated Plan—every five years to the U.S. Department of Housing and Urban Development (HUD) that identifies local needs and how these needs will be addressed. The Consolidated Plan must also demonstrate how the City will meet national goals set by the U.S. Congress to develop viable communities by providing decent housing, a suitable living environment, and economic opportunities, principally for persons of low- and moderate-income<sup>2</sup> (lower-income).

The Consolidated Plan is guided by three overarching goals:

*The overall goals of the Consolidated Plan are:*

- Provide decent and affordable housing*
- Provide a suitable living environment*
- Expand economic opportunities*

- **To provide decent and affordable housing** for lower-income and homeless persons and increase the supply of supportive housing to enable persons with special needs to live with dignity.
- **To provide a suitable living environment** by improving the safety and livability of neighborhoods.
- **To expand economic opportunities** by creating jobs accessible to lower-income persons and empowering lower-income persons to achieve self-sufficiency.

### Focus of the Plan

As required by the federal government, the identification of needs and the adoption of strategies to address those needs must focus primarily on lower-income individuals and households. The Consolidated Plan must also address “special” needs identified by the federal government or locally, such as the needs of the elderly, persons with disabilities, large families, single parents, homeless individuals and families, and persons with HIV/AIDS.

<sup>1</sup> Federal programs covered by the Consolidated Plan are: Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Shelter Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA).

<sup>2</sup> Low-income households are defined as earning 50 percent or less of the Stanislaus County area median income (AMI), as defined by the federal government. Moderate-income households earn between 50 percent and 80 percent of the County AMI.

## Priority Needs and Strategies

The City's overall priority is to increase economic opportunity and self-sufficiency for lower-income residents and individuals with special needs so that they can achieve a reasonable standard of living. This priority can be achieved through a combination of:

- Affordable housing;
- Supportive services to maintain independence;
- Education and technical skills that allow individuals to obtain jobs paying self-sufficiency wages; and
- Investment in lower-income and deteriorating neighborhoods, and in facilities that serve lower-income populations.

*The housing affordability gap leads to high rates of overcrowding, overpayment, and substandard housing conditions among lower-income households*

The City, by focusing on these overall priorities, seeks to address community concerns such as:

- A need for additional affordable housing to address the growing gap between housing costs and local incomes, which leads to rising rates of overcrowding, overpayment, and substandard housing conditions for the City's lowest income residents;
- Supportive services that increase the ability of seniors, persons with disabilities, and others with special needs to live independently and avoid institutions;
- A network of shelter, housing, and support services to prevent homelessness, move the homeless to permanent housing and independence, and eliminate homelessness within ten years; and
- Programs that promote economic development and create jobs, and that increase the job skills level of potential employees.

Specific priorities and how these priorities were established are described below.

One of the main obstacles to meeting community needs is inadequate resources for programs that could address these needs. Although California voters approved dedicated funding for mental health services through a 2004 voter initiative, other State and federal funding sources for housing and community development programs are expected to be limited for the foreseeable future.

## Housing Needs

*Housing costs have increased significantly in Modesto, causing a growing gap between home prices and local incomes*

In recent years, Modesto has experienced a significant increase in home prices and rents. High housing costs reduce economic opportunities, access to jobs and services, and the ability of lower-income households to live in the

communities and neighborhoods of their choice. The affordability gap results in a concentration of lower-income households in older neighborhoods that have higher levels of substandard housing and overcrowding. Some of the indicators of housing need and the challenges facing the City are described below.

- Since 2000, the median home price in Stanislaus County has doubled, while the median rent has increased by over 50 percent. From 2002 to February 2005, the median home price in Modesto increased by 44 percent.
- Few lower-income households can afford to purchase homes. Most households earning less than 50 percent of the area median income face difficulties in finding affordable rental housing, as well.
- Approximately 18,100 lower-income households in the City did not have adequate housing in 2000.<sup>3</sup>
- There are only approximately 1,180 assisted rental units affordable to lower-income households, of which 735 units are at risk of converting to market-rate housing within the next ten years.
- Over 2,600 rental housing vouchers are provided to City households by the Housing Authority of the County of Stanislaus (HACS). The HACS reports over 1,600 City applicants on its waiting list for rental housing vouchers.
- According to the Stanislaus Council of Governments (Stan COG) regional housing needs allocation, the City should accommodate 5,985 new housing units affordable to lower-income households between 2001 and 2008 (800 per year).
- Approximately 2,000 beds in 78 residential care facilities are available for individuals with special needs, (such as frail elderly and persons with disabilities) who cannot live independently in conventional housing. However, this is significantly less than the population of frail elderly, disabled, and others who may need a supportive housing environment.

*Households most affected by the cost of housing are those earning 30 percent of median income, large families, senior renters, and others with special needs*

Due to the ongoing gap in the availability of affordable housing, the City has assigned a high priority to new housing construction, homeownership assistance, and housing rehabilitation, particularly for households earning less than 50 percent of the area median income. Despite the high cost, it is essential to expand the supply of affordable housing and supportive housing,

<sup>3</sup> Based on calculations provided by HUD from the 2000 Census on overpayment, overcrowding, and substandard housing conditions.

because the affordability gap cannot be addressed solely through existing housing.

Priorities and strategies for addressing affordable housing needs are as follows:

### **Priorities**

**Priority H-1. Increase the supply of affordable rental housing.**

**Priority H-2. Provide homeownership opportunities.**

**Priority H-3. Preserve existing affordable housing stock.**

**Priority H-4. Continue to support fair housing.**

### **Strategies**

- Increase rental housing by partnering with the Modesto Redevelopment Agency (RDA) to develop housing units.
- Use HOME funds to leverage funding for the construction of new housing units.
- Use the Revolving Loan Fund to acquire property for affordable housing.
- Continue monitoring the Down Payment Assistance Program closely, along with the housing market, to ensure the program can benefit as many first-time homebuyers as possible while protecting the City's investment.
- Investigate preserving existing affordable housing covenants in Section 8 rental housing units.
- Complete the Highway Village Mandatory Housing Rehabilitation Target Area project.
- Begin a new City-wide Housing Rehabilitation Program, with fewer restrictions and higher loan limits, to encourage rehabilitation of existing housing units.

The City shall increase rental housing by partnering with RDA to develop housing units

- Consider new Mandatory Target Area to coordinate with the Police Department's "Weed and Seed" designation, starting with Roselawn Area "A".
- Implement the recommendations in the City's Analysis of Impediments to Fair Housing Choice, currently being prepared.

An estimated 2,000-2,500 persons in Stanislaus County become homeless each year, and an estimated 5,400 households in Modesto are at risk of becoming homeless

## Homeless Needs

The priorities for ending homelessness are based on the recognition that homelessness results from more than just a lack of affordable housing, although providing housing is the ultimate objective.

An estimated 2,000-2,500 people experience homelessness in Stanislaus County at some point during the year. A homeless point-in-time count conducted in January 2005 found 1,613 homeless persons countywide, 935 of whom were living outdoors and the rest in shelters, transitional housing, soup kitchens, and other programs serving the homeless. Of the homeless persons counted, 623 were members of homeless families, and the remainder homeless individuals. It is not known how many of the homeless were identified in Modesto, but it is expected that a majority were located in the City, due to the size and availability of services.

In addition, an estimated 5,400 households in the City have extremely low incomes and are at risk of homelessness, paying an excessive portion of their income for rent. An unexpected job loss, illness, or eviction can force these individuals and families onto the streets because high rents and other financial problems preclude them from accumulating a savings cushion to protect themselves.

The City has participated in countywide planning to move individuals and families from homelessness to permanent housing and independent living through a network of supportive services linked to housing. The primary strategy document is the Continuum of Care. A draft plan to end homelessness has been prepared for Stanislaus County, but has not yet been adopted by the County or the City.

Priorities and strategies for addressing affordable housing needs are as follows:

### Priorities

**Priority HM-1. Address chronic homelessness.**

**Priority HM-2. Increase transitional housing.**

**Priority HM-3. Provide permanent supportive housing.**

**Priority HM-4. Prevent homelessness for those at most risk.**

**Priority HM-5. Provide intensive and coordinated case management.**

### Strategies

- Establish a "One-Stop Homeless Service Center" within the former Social Security Administration building at 1230 12<sup>th</sup> Street.
- Enter into "Master Leasing" arrangements with non-profit organizations and the County's Behavioral Health Department.
- Consider longer-term contracts for Direct Shelter Services for ESG or CDBG funding.
- Develop and adopt a ten-year plan to end long-term homelessness, and identify the number of units and the support services needed to assist the homeless.
- Increase options for long-term transitional housing, especially for certain affected groups such as women with children, and those with mental health and chemical dependency issues.
- Apply for federal and State grants and other special funding that is designed to increase shelter and transitional housing options for homeless individuals, such as State of California Proposition 46 funds.
- Support services and agencies listed in the Stanislaus County 2004 Continuum of Care Application.
- Fully implement the Homeless Management Information System (HMIS) to better identify gaps in service and to maintain accurate data about housing and service needs.

### Community Development Needs

*Many individuals with special needs require access to a coordinated network of support services to achieve economic self-sufficiency and independent living*

To achieve the City's goals for economic opportunity leading to self-sufficiency, a suitable living environment, and decent housing, a network of support services is needed to ensure that lower-income residents are trained and educated for the labor needs of today and tomorrow. This network is

also needed to ensure that lower-income residents have access to transportation between work, home, and other daily activities; and have access to health care to remain self-sufficient. For working parents, access to child care and/or programs for their school-age children is important. The network of services must ensure that lower-income residents can live as independently as possible within their physical and developmental abilities, and can be secure in their homes without the threat of violence.

Within the City, in various degrees, there is an ongoing gap in the availability of services across most categories of special need, including seniors, at-risk youth, working parents, persons with disabilities, individuals with chronic illness, and persons with other conditions affecting their ability to function independently and productively. In addition, there is a need to link access to supportive services to affordable and appropriate housing. More coordination and collaboration is needed between housing providers and service providers.

Based upon a community questionnaire, the following community development needs were determined to have a High priority:

- Affordable housing
- Health care facilities and health services
- Youth centers
- Fire stations and equipment
- Anti-crime programs
- Youth activities
- Child care centers
- Transportation services
- Park and recreational facilities
- Community centers
- Libraries
- Homeless shelters/services
- Child care services

Affordable housing and homeless needs are addressed under their respective sections. Priorities and strategies for addressing community development needs are as follows:

### Community/Economic Development

#### **Priorities**

#### **Priority CD-1. Infrastructure improvements in low-income neighborhoods.**

General public services are intended to improve the quality of life and independence of lower-income persons, and promote prevention and early intervention on a variety of social concerns



**Priority CD-2. Americans with Disabilities Act (ADA) accessibility improvements.**

**Priority CD-3. Community centers/recreation facilities in low-income neighborhoods.**

**Priority CD-4. Infrastructure improvements to attract job-creating businesses.**

**Priority CD-5. Comprehensive workforce training.**

**Priority CD-6. Business recruitment and retention.**

### Strategies

- Continue street paving in low-income areas as defined by HUD.
- Continue with installation of ADA curb cuts.
- Develop a Neighborhood Revitalization Strategy that will complement the "Weed and Seed" program. Components of this strategy will include the following:
  - Code enforcement
  - Housing rehabilitation
  - Police Department's "Beat Health" programs
  - Neighborhood clean-ups

### Public/Supportive Services

#### Priorities

**Priority CD-7. Supportive services that allow for independent living by populations with special needs.**

**Priority CD-8. Supportive services combined with housing programs for homeless persons and families.**

**Priority CD-9. Training in life skills and job and language skills.**

**Priority CD-10. Child care services.**

**Priority CD-11. Programs for at-risk youth.**

**Priority CD-12. Transportation services for those with special needs.**

**Strategies**

- Continue to fund public services at the highest percentage allowed by HUD regulations.
- Combine housing and services for homeless populations.
- Investigate new program to increase child care opportunities to low-income families.
- Investigate the use of CDBG funds for addressing health care issues.

**How Priorities Were Established**

Priorities for the Consolidated Plan derive from the primary goals described at the beginning of this Executive Summary:

- To provide decent housing;
- To provide a suitable living environment; and
- To expand economic opportunities.

Priorities are also based on the City's belief that, by increasing economic opportunity and self-sufficiency, many of the housing, social service, educational, and other needs can be addressed more readily.

Members of the City are committed to allocating funds that serve the needs of the lowest-income and most disadvantaged residents. Households with incomes less than 50 percent of the area median income, particularly those with extremely low incomes (less than 30 percent of area median income), are particular priorities. The City has also identified special needs individuals as among those who face the greatest challenges and who should receive high priority in the expenditure of federal funds, including at-risk children and youth, lower-income families, the homeless and persons threatened with homelessness, the elderly (especially frail elderly), and persons with disabilities.

As described below, the City undertook an extensive outreach process to public and private organizations and individuals to identify priority needs and methods establishing those priorities.

## **The Planning Process**

The preparation of the Consolidated Plan began with “in-reach” among public agencies in the City. The City sought first to identify potential needs, service gaps, and key issues on which to focus the community outreach process.

The City also solicited input through the distribution of service provider questionnaires and resident surveys. Service providers were asked to identify critical issues pertaining to housing and community development needs, and any unmet needs or gaps in service. Residents were asked to rank various service and public facility needs in the City. The results were tabulated and priorities were established based on an average score.

To obtain further public input on the identification of priority needs and proposed strategies to address those needs, the City conducted a public workshop on the Consolidated Plan in February 2005, and a public hearing on the draft Consolidated Plan in April 2005.

## **Funding to Implement the Plan**

City members have identified several potential funding sources to implement the strategies contained in the 2005 – 2009 Consolidated Plan. These sources include, but are not limited to:

- Federal funds covered under the Consolidated Plan: CDBG, HOME, ESG, and HOPWA (provided through an agreement with the State of California as a recipient of HOPWA funds);
- Funds provided under other HUD programs, the Department of Commerce, the Federal Emergency Management Agency, and other federal agencies;
- State funds provided under various programs of the California Department of Housing and Community Development and the California Housing Finance Agency;
- State and federal tax credits and mortgage credit certificates;
- Tax-exempt bond proceeds;
- City's Redevelopment Agency tax increment funds and the low/moderate income set-aside from those funds;
- City's General Fund; and

- Private industry sources such as the Federal Home Loan Bank Board's Affordable Housing Program.



# 3-5 Year Strategic Plan

This document includes Narrative Responses to specific questions that grantees of the Community Development Block Grant, HOME Investment Partnership, Housing Opportunities for People with AIDS and Emergency Shelter Grants Programs must respond to in order to be compliant with the Consolidated Planning Regulations.

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## GENERAL

### Executive Summary

*The Executive Summary is optional, but encouraged. If you choose to complete it, please provide a brief overview that includes major initiatives and highlights that are proposed throughout the 3-5 year strategic planning period.*

3-5 Year Strategic Plan Executive Summary:

The Executive Summary is presented as a separate document from the Strategic Plan.

### Strategic Plan

*Due every three, four, or five years (length of period is at the grantee's discretion) no less than 45 days prior to the start of the grantee's program year start date. HUD does not accept plans between August 15 and November 15.*

Mission:

The Consolidated Plan identifies three overall goals that relate to the major commitments and priorities of HUD:

- Provide decent and affordable housing for low-income and homeless persons and increase the supply of supportive housing to enable persons with special needs to live with dignity.
- Provide a suitable living environment by improving the safety and livability of neighborhoods.
- Expand economic opportunities by creating jobs accessible to low-income persons and empowering low-income persons to achieve self-sufficiency.

### General Questions

*1. Describe the geographic areas of the jurisdiction (including areas of low income families and/or racial/minority concentration) in which assistance will be directed.*

*2. Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA) (91.215(a)(1)) and the basis for assigning the priority (including the relative priority, where required) given to each category of priority needs (91.215(a)(2)).*

*3. Identify any obstacles to meeting underserved needs (91.215(a)(3)).*

3-5 Year Strategic Plan General Questions response:

**1. Geographic Areas of Low-Income and Minority Concentration**

Refer to maps in Attachment A, which depict areas of low-income and minority concentrations. The City seeks to direct funds primarily to these areas of the City and to programs and projects that serve residents of these areas.

**2. Bases for Allocating Investments and Assigning Priorities**

Allocation of CDBG and HOME funds, and assignment of priorities for funding, are based upon the national goals set forth by HUD regulations, and local goals for housing and community development. These local goals, which are consistent with HUD regulations, focus on building up and improving the City's people and neighborhoods. The City's priorities are based on the following broad principles:

- A community that values diversity; respects cultural, ethnic and individual differences; and provides equal opportunity and access to services.
- A community where children and youth can thrive and succeed, with adequate education, health care and nutrition.
- A community that has a labor force able to secure and maintain employment.
- A community that provides senior citizens and disabled persons with the support needed to be secure, to function independently, and to contribute to the community.
- A community that has an adequate supply of affordable housing dispersed throughout the community.

Goals contained in the *City of Modesto 2001 - 2004 Strategic Plan* that the City deemed relevant for the Consolidated Plan were also among the bases for assigning priorities and include:

- The City encourages opportunities for all levels of education and workforce development, including trade school, college and university.
- Our downtown is a vibrant, government, financial, corporate and regional entertainment center with high-density housing and services.
- Identify opportunities for collaborative delivery of police, fire, recreation and neighborhood services.
- Promote a variety of housing types to address the diversity of needs for people throughout their life cycle and across income levels.
- People in neighborhoods have convenient linkages to services.
- Collaborate for health services delivery with our partners, such as the County.
- Actions support the safe and healthy, drug-free, gang-free development of young people.

Several policies contained in the City's 2004 Housing Element (a part of the Modesto General Plan required under State law) were also relevant to the shaping of Consolidated Plan priorities. These policies include:

- Policy 1.1: Establish and/or support programs to supply below market housing for very-low, low- and moderate-income households, as well as market rate housing.
- Policy 1.2: Promote the development of affordable housing throughout the community, where appropriate and where compatible with existing uses.
- Policy 1.3: Facilitate the development of entry level housing as well as "step-up" housing.
- Policy 1.4: Facilitate the development of housing for the unmet needs of lower-income special needs groups, including the disabled, elderly, homeless and large families (families with five or more persons).
- Policy 2.1: Promote equal opportunity for all residents to reside in the housing of their choice.
- Policy 2.2: Continue to make a strong commitment to the issue of fair housing practices, as well as ensure that fair housing opportunities prevail for all City residents regardless of age, sex, religion, ancestry, marital status, family status, income or source of income, race, creed, national origin, sexual orientation, or disabilities.
- Policy 2.3: Encourage a range of housing types to be constructed in subdivisions and large developments.
- Policy 2.4: Facilitate the development of second units as an affordable housing alternative.
- Policy 2.5: Encourage the development and rehabilitation of housing that is accessible to persons with disabilities.
- Policy 3.1: Maintain the supply of safe, decent and sound affordable housing in the City of Modesto through the conservation and rehabilitation of the City's existing housing stock.
- Policy 3.2: Focus the use of City resources for housing rehabilitation and assisted housing on those neighborhoods and residents having the greatest need for housing assistance.
- Policy 3.3: Make a maximum effort to preserve, for its lower-income households, the units in assisted housing developments that are eligible to change to non-lower-income uses, due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions.
- Policy 3.4: Assist non-profit housing providers in the acquisition and/or rehabilitation of older residential structures, and maintenance as long-term affordable housing.



- Policy 3.5: Promote energy conservation activities in all residential neighborhoods.
- Policy 5.1: Establish and maintain development standards that support housing production while protecting quality of life goals.
- Policy 5.2: Continue to provide financial incentives such as fee deferrals and exemptions for developments meeting the affordable and special housing needs of the community.
- Policy 5.3: Continue to provide for timely and coordinated processing of residential development projects to encourage housing production within Modesto.
- Policy 5.4: Review the City's fee structure, including development fees, impact fees, and other municipal costs periodically to ensure that they do not unduly constrain the production of housing, especially affordable housing.

In addition, priorities were established on the basis of comments received from the general public and interested parties from community workshops, surveys, and comments received during the Consolidated Plan preparation process. Priorities were also developed as a result of City outreach to non-profit agencies, neighborhood groups, the private sector, other government agencies, and service clubs.

### **3. Obstacles to Meeting Underserved Needs**

The primary obstacle to meeting underserved needs is availability of funding. The availability of funding from both federal and State sources is a primary determinant in the ability of the local jurisdictions to address identified needs. Budget problems at both the federal and State levels make funding for housing programs uncertain. In part to make the most of limited resources, the City has formed partnerships with a variety of governmental, non-profit and service agencies to combine resources to implement programs related to housing and community development needs.

Another obstacle, as discussed in the Housing Market Analysis section, is the increasing cost of housing and the provision thereof, which increases the difficulty of meeting affordable housing needs. Also, as described in the Barriers to Affordable Housing section of this document, another potential obstacle is local ordinances and regulations that could limit the provision of housing for lower-income households and special needs groups.

Service providers identified a number of obstacles to meeting underserved needs, including:

- Lack of sufficient volunteers to support service delivery;
- Language and cultural barriers that impede access to information;
- Income guidelines used to qualify residents for service eligibility (many residents have incomes just above the eligibility limits but still need assistance);
- Lack of accessible facilities to serve special needs groups with disabilities;
- Lack of proper documentation by many special needs individuals;
- Insufficient collaboration or networking among some service providers.

## **Managing the Process (91.200 (b))**

1. *Lead Agency. Identify the lead agency or entity for overseeing the development of the plan and the major public and private agencies responsible for administering programs covered by the consolidated plan.*

2. *Identify the significant aspects of the process by which the plan was developed, and the agencies, groups, organizations, and others who participated in the process.*

3. *Describe the jurisdiction's consultations with housing, social service agencies, and other entities, including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, and homeless persons.*

*\*Note: HOPWA grantees must consult broadly to develop a metropolitan-wide strategy and other jurisdictions must assist in the preparation of the HOPWA submission.*

3-5 Year Strategic Plan Managing the Process response:

### **1. Lead Agency**

The City of Modesto is the Lead Agency overseeing the development of the Consolidated Plan. Refer to the response to Item 1 in the Institutional Structure section of this Strategic Plan for a listing of agencies responsible for administering programs covered by this Consolidated Plan.

### **2. Significant Aspects of Plan Development Process**

The Consolidated Plan was prepared with oversight by the Citizens Housing and Community Development Committee (CH&CDC). This committee, appointed by the City Council and chaired by the Mayor, has representatives of various other City committees (Community Development and Housing, Planning Commission, Housing Rehabilitation Loan Committee, etc.), as well as a Stanislaus County Supervisor's delegate representing the low-income areas in the City. In addition, at-large seats, generally representing low-income and racial minority groups, fill out the 11-member committee.

Other key aspects of the planning process were:

- Consultation with representatives of City and County agencies to identify priority unmet needs.
- Consultation with non-profit organizations that provide housing, facilities, and/or services to low- and moderate-income residents (see Item 3 below).
- Consultation with the general public through workshops, public hearings (see Citizen Participation below), and a resident survey.

### **3. Consultations with Housing, Social Service and Other Agencies**

The City conducted a consultation with City agencies during February 2005. It also consulted non-profit organizations funded by the City during March 2005, as part of the City's funding process under the 2005-2006 Action Plan. The City also

distributed a service provider questionnaire to solicit information on priority community needs. Attachment A (Public and Agency Comments) contains details regarding service provider input. Service providers offered the following recommendations regarding priority needs:

- Additional affordable and accessible housing (particularly rental housing for those earning less than 50 percent of median income) due to the growing gap between local wages and housing costs;
- Supportive services (particularly in-home services) to allow frail elderly and persons with disabilities to live independently;
- Greater financial resources for staffing of supportive services;
- Rental assistance (credit counseling, assistance with move-in expenses, utility assistance, etc.) for those transitioning from homelessness or most at risk of becoming homeless);
- Financial assistance for housing rehabilitation and home modifications to increase accessibility and independent living;
- Transportation for those without access to private vehicles;
- Additional homeless and transitional housing shelter space (particularly accessible space for those with disabilities);
- Anti-crime and youth activities aimed at minors at-risk of participating in gangs;
- Sidewalk and other street improvements in low-income neighborhoods, particularly to increase accessibility and provide safe routes for children;
- Health care for the "working poor" without medical insurance;
- Food and clothing support for families and seniors (particularly those with extremely low incomes);
- Workforce development, including job and skills training, English literacy, and job placement services to ensure low-income residents are prepared for, and have access to, jobs that pay self-sufficiency wages; and
- Continued awareness and education programs to promote fair housing knowledge and practices among residents, property owners, and property managers.

### **Citizen Participation (91.200 (b))**

1. *Provide a summary of the citizen participation process.*
2. *Provide a summary of citizen comments or views on the plan.*
3. *Provide a summary of efforts made to broaden public participation in the development of the consolidated plan, including outreach to minorities and non-English speaking persons, as well as persons with disabilities.*
4. *Provide a written explanation of comments not accepted and the reasons why these comments were not accepted.*

*\*Please note that Citizen Comments and Responses may be included as additional files within the CPMP Tool.*

3-5 Year Strategic Plan Citizen Participation response:

#### **1. Citizen Participation Process**

Citizen participation in the Consolidated Plan process included a public workshop on the Consolidated Plan held February 18, 2005, a public review period for the draft Consolidated Plan during April 2005, a public hearing by the Citizens Housing and Community Development Committee on April \_\_ 2005, and a public hearing by the Modesto City Council on May \_\_, 2005.

The City distributed resident questionnaires in English and Spanish among community organizations and neighborhood centers seeking public input on community needs and priorities. Approximately 100 resident surveys were submitted. Attachment A details the results of the survey. The City also provided surveys to service agencies involved in housing and community development, who in turn distributed the surveys to their clients.

## **2. Summary of Citizen Comments**

Refer to Attachment A of this document, which provides a summary of comments made by citizens at the public hearings and workshops. According to the results of a resident survey, community needs with the highest priority scores, based on a scale of one to four with one being the lowest priority, were:

- Fire stations and equipment;
- Health care facilities and services;
- Youth centers and activities;
- Anti-crime programs;
- Child care centers and services;
- Transportation services;
- Park and recreation facilities;
- Community centers;
- Libraries; and
- Homeless shelters and services.

Medium priority community needs were:

- Senior centers and activities;
- Facilities and services for neglected or abused children;
- Street lighting;
- Homeownership assistance;
- Mental health services;
- Substance abuse services;
- HIV/AIDS services;
- Legal services;
- Street/alley improvements;
- Facilities and services for persons with disabilities;
- Sidewalk improvements; and
- Drainage improvements.

It should be noted that, although affordable housing was not on the resident survey, it was the most frequently mentioned need that was considered a high priority by survey participants. Affordable housing was also the highest priority need named by service providers participating in a separate survey.

## **3. Efforts to Broaden Participation**

The City prepared survey forms in Spanish in an effort to increase participation by Spanish-speaking residents. Public notices pertaining to the Consolidated Plan were issued in English and Spanish. Public meetings were held in areas with predominantly low- and moderate-income residents, and meeting facilities were accessible to disabled persons.

#### 4. Comments Not Accepted

The City accepted all public comments on the Consolidated Plan and seeks to address as many of the public's concerns and priorities as possible. However, the lack of adequate funding to address all needs during the five-year period covered by this Consolidated Plan (2005 - 2009) means that not all priority needs can be addressed, or fully addressed. Public comments related to the City's processes for funding, coordinating, and monitoring projects, programs and services under the Consolidated Plan were also accepted, and will be considered in the City's review of its internal processes.

#### Institutional Structure (91.215 (i))

*1. Explain the institutional structure through which the jurisdiction will carry out its consolidated plan, including private industry, non-profit organizations, and public institutions.*

*2. Assess the strengths and gaps in the delivery system.*

*3. Assess the strengths and gaps in the delivery system for public housing, including a description of the organizational relationship between the jurisdiction and the public housing agency, including the appointing authority for the commissioners or board of housing agency, relationship regarding hiring, contracting and procurement; provision of services funded by the jurisdiction; review by the jurisdiction of proposed capital improvements as well as proposed development, demolition or disposition of public housing developments.*

3-5 Year Strategic Plan Institutional Structure response:

##### 1. Institutional Structure

The City of Modesto will implement the Consolidated Plan through the following agencies and organizations. The City will serve as the lead agency in coordinating and monitoring the use of federal funds.

**City of Modesto.** The following City departments are involved in the implementation of the Consolidated Plan:

- **Parks, Recreation and Neighborhoods Department.** The Parks, Recreation and Neighborhoods Department is responsible for managing the implementation of the Consolidated Plan and overseeing the use of federal funds. This department also oversees the City's housing, public services, neighborhood preservation, and other programs that are funded under the Consolidated Plan.
- **Community and Economic Development Department.** The Community and Economic Development Department is responsible for development review and permitting; building inspection, plan checking, and permitting; and business development. Programs and projects that seek to create housing and jobs for low- and moderate-income residents are the responsibility of this department. The Department also implements the Workforce Development Program.

- **Public Works Department.** The Public Works Department is responsible for publicly-owned facilities and infrastructure, such as streets, sidewalks, and other public rights-of-way; water, sewer, and storm drain facilities; and landscaping in public areas other than community parks and recreation facilities. This department directs projects and programs that seek to improve community facilities and infrastructure in low- and moderate-income neighborhoods and to improve handicapped access in public areas.
- **Police and Fire Departments.** These departments provide law enforcement, public safety and emergency services, and are involved in the implementation of anti-crime, homeless, public safety and emergency services funded under the Consolidated Plan.

**Stanislaus County.** Stanislaus County is the primary provider of public services through the departments listed below. The City of Modesto coordinates the delivery of public services and programs operated by public and non-profit agencies through these various County departments.

- Homeless Assistance Program
- Health Services Agency
- Department of Mental Health, Behavioral Health and Recovery Services
- Department of Social Services
- Stanislaus County Area Agency on Aging

**State of California.** The State of California provides funding and services to cities and counties in California through several State agencies to meet a variety of housing, community development and social service needs. The following agencies, while not a complete list, provide much of the funding and services to low- and moderate-income Modesto residents.

- Department of Rehabilitation, Modesto office
- Valley Mountain Regional Center
- Rehabilitation Hospital
- California Department of Housing and Community Development

**Other Public Agencies.** There are public agencies, other than those that are part of the City, County or State, that participate in housing and community development programs. Two of these agencies include:

- **Housing Authority of the County of Stanislaus (HACS).** The Housing Authority of the County of Stanislaus is responsible for the County's public housing and rental assistance programs (e.g., Section 8 vouchers), operates rental housing rehabilitation programs, and is the project sponsor for selected affordable housing projects.
- **Modesto School Districts.** Eight school districts serve the City of Modesto. The primary districts are the Modesto City Elementary School District and the Modesto City High School District, which operate jointly as the Modesto City Schools under a single board of education. School districts partner with the City in providing youth services, such as before- and after-school programs, nutrition programs, health services, anti-crime programs, and other programs for Modesto's low- and moderate-income families. The school districts also provide

facilities from which these services can be provided, and collaborate with the City in providing joint recreation programs and facilities for low-income and at-risk youth.

**Non-Profit Organizations.** Private, non-profit organizations provide the majority of housing, shelter and direct services funded under the Consolidated Plan. Among the agencies that deliver services to low- and moderate-income Modesto residents, many of which are funded by the City, are:

- ARC of Stanislaus County
- California Association of the Physically Handicapped, Chapter No. 37
- Center for Human Services
- Central Valley Homeless Veterans Project
- Central Valley Opportunity Center
- Children's Crisis Center
- Community Transitional Resources
- Community Housing and Shelter Services
- Daily Bread Ministries
- Disability Resource Agency for Independent Living (DRAIL)
- Doctors Medical Center Foundation
- Golden Valley Health Centers Homeless Health Project
- Habitat for Humanity
- Haven Women's Center of Stanislaus County
- Healthy Aging Association
- Interfaith Ministries
- Modesto Gospel Mission
- Modesto Love Center Ministries
- Parent Resource Center
- Project Sentinel
- Salvation Army
- Second Harvest Food Bank
- Self-Help Enterprises
- Stanislaus Community Assistance Project (SCAP)
- Stanislaus County Affordable Housing Corporation (STANCO)
- Stanislaus Literacy Center
- Telecare/SHOP
- United Way of Stanislaus County (*not a direct service provider, but a funding agency*)
- West Modesto/King Kennedy Neighborhood Collaborative
- YMCA

**Private Entities.** Various private entities, including homebuilders and homebuilder associations, lenders, real estate professionals and associations, and rental property owners and associations collaborate with the City, other public agencies, and non-profit organizations to provide housing, financing for housing, and promote fair housing programs.

**Stanislaus County Housing and Supportive Services Collaborative.** The Stanislaus Housing and Supportive Services Collaborative (SCHSSC) is comprised of over 88 members and more than 50 agencies and organizations representing all

cities within Stanislaus County. Representation includes non-profit organizations, homeless persons, formerly homeless persons, local government, disability service organizations, the public housing authority, police and fire service departments, faith-based and other community-based organizations, service agencies, community members, government agencies and housing developers. In July 2001, the Stanislaus County Board of Supervisors and the City of Modesto officially recognized the SCHSSC as the coordinating body for homeless programs and services in Stanislaus County. The SCHSSC is also the lead agency for the Stanislaus County Continuum of Care.

## **2. Strengths and Gaps in Delivery System**

The comprehensive nature of the delivery system in Modesto is one of its strengths. The delivery system includes public agencies, private firms and non-profit organizations that have involvement in housing and community development issues. Each type of organization involved contributes its own knowledge of local conditions, which ensures a more comprehensive approach to solving housing and community development problems. This also leads to a greater sharing of resources, both financial and personnel, which increases the effectiveness of these otherwise limited resources. The predominantly local nature of the institutional structure is another strength, as this makes it more likely that actions on housing and community development consider local conditions and address local needs.

However, the comprehensive nature of the delivery system also contains problems. Coordination among the various agencies can be difficult, even among agencies within the same organization. For example, four division/departments within the City of Modesto are responsible for various housing and community development programs. The number and variety of participants in the delivery system makes it more difficult to establish priorities and to allocate resources. Finally, the complexity of the delivery system may increase the possibility of a client "falling through the gaps" and not receiving the services required.

The City has made several efforts to address the potential gaps in the delivery system. Among City departments that are involved in housing and community development programs, Memorandums of Understanding (MOUs) are in place that delineate the program and reporting requirements for each department. Other examples of efforts to overcome gaps in the institutional structure and to enhance coordination include:

- The City's CDBG staff works with the City's Finance, Parks Planning, and Public Works Departments to ensure that capital improvement projects are on schedule, and that invoices are paid in a timely manner.
- The Deputy Director for HUD programs meets on a weekly basis with the key CDBG and HOME staff members to discuss the status of projects and upcoming meetings.
- The HOME program manager is a member of the City's Development Review Team, which meets weekly to review and discuss all proposed residential and commercial developments in the City. The team includes traffic engineers, landscape architects, planners, etc., to ensure that all developments are looked at from every angle in terms of their impacts to the surrounding neighborhoods, and how the project fits in with "Smart Growth" principles.



- CDBG staff provided a technical assistance workshop to non-profit agencies on the types of services that are eligible for public service funding, as well as a detailed explanation of ESG requirements. The workshop also covered how to properly fill out an application package.
- CDBG and HOME staff participated in the following community/collaborative committees: Stanislaus County Housing and Support Services Collaborative, Emergency Food and Shelter Board, United Way Impact Councils on Building Strong Neighborhoods, and Safety Net.
- CDBG and HOME staff was involved in the update of the City's Housing Element. The HOME program manager was especially involved in the discussions surrounding multi-family and affordable housing, and a review of existing HUD-funded housing programs and an evaluation of their effectiveness.
- City staff worked with staff from the Fresno HUD office, Stanislaus County, Federal National Mortgage Association (FNMA or "Fannie Mae") and local housing agencies to present a Homeownership Expo at the Modesto Centre Plaza in June 2004. Real estate, mortgage and financing companies and housing developers provided information to consumers at their booths, while classes were provided on the home-buying process, down payment assistance programs, "sweat equity" programs, and HUD homes.
- The Director of the Parks, Recreation and Neighborhoods Department serves as a chair of the United Way Building Strong Neighborhoods Impact Council, whose goal is to build capacity among neighborhood-based organizations, many of which are in low-income areas.

### **3. Strengths and Gaps in Public Housing**

The HACS is a public agency independent of the City of Modesto. Although the City and HACS have collaborated in the past on several issues related to housing, the HACS is governed by its own commission and executive director. Therefore, the City does not have a direct influence on HACS operations.

However, the City and HACS have collaborated on several projects of note. The HACS has coordinated its crime prevention measures with the Modesto Police Department. This has included the establishment of a physical presence of police on HACS property, involvement in the development and implementation of a drug-elimination plan, and regular meetings with HACS management and residents. Also, HACS and the City participated in the construction of the Miller Pointe Apartments, a 16-unit complex designated for people with mental illness.

Funding limitations for both agencies may encourage more collaboration. However, since HACS focuses mostly on lower-income households, collaboration between the City and HACS would be focused mainly on housing for these households. Also, since the City has other housing and community development needs to address, its participation with HACS may be further limited. In addition, HACS faces funding and staff constraints, and availability of sites for assisted housing is considered limited by HACS. Therefore, there may only be an incremental amount of assisted housing made available in the City through HACS participation.

## **Monitoring (91.230)**

*Describe the standards and procedures the jurisdiction will use to monitor its housing and community development projects and ensure long-term compliance with program requirements and comprehensive planning requirements.*

3-5 Year Strategic Plan Monitoring response:

### **General**

The City monitors its performance in meeting the goals and objectives set forth in the Consolidated Plan in the following ways:

- Keeping the community aware of the Consolidated Plan and asking for its input on the City's progress in meeting the Plan's goals and objectives at various public forums.
- Staff review of proposals for consistency with the Consolidated Plan.
- Evaluating and discussing in detail the City's performance as it related to the Consolidated Plan during preparation of the Consolidated Annual Performance Evaluation Report (CAPER).

In addition, a coordinated procedure has been established within the Parks, Recreation and Neighborhoods Department to verify and confirm that grant funds have been used in an eligible and appropriate fashion. The Department receives monthly budget printouts from the Finance Department, and staff verifies and cross-references the information on the printouts, with supporting documentation maintained at the Department office. Department staff also assigns a unique number to each activity, which provides easy identification on both the City's financial reporting system and IDIS, the federal financial cash management system.

### **Housing Rehabilitation and Loan Program**

For projects funded under the Housing Rehabilitation Loan Program, both the Housing Financial Specialist and the Housing Rehabilitation Specialist monitor the use of those funds. Funds are disbursed according to a detailed Real Property Improvement Agreement that is executed by the property owner and the contractor. When a phase of the work is completed, the Housing Rehabilitation Specialist confirms the completeness of the phase of rehabilitation and reviews the work with the property owner. The owner signs a payment request voucher that authorizes the disbursement of funds according to the contract. The Housing Financial Specialist reviews the payment voucher, after which time it is approved by the Deputy Director of the Parks, Recreation and Neighborhoods Department. The City's Finance Department monitors the disbursement of funds and balance of the project account. For owner-occupant deferred loans, the City monitors compliance with loan terms every 18 months.

### **CDBG and ESG Funds**

As contracts are written for the various organizations (subrecipients) receiving CDBG or ESG funds, strict controls are placed on the use of the funds. Whenever possible, payments are made for units of service delivered to beneficiaries. Performance measures (i.e., number of individuals served, type of activity, accomplishments, etc.) are established as part of the agreement. This enables City staff to monitor the effectiveness of the funded project. The agreement for services also includes

general performance standards, including the provision of monthly activity reports to the City, and written requests for reimbursement of expenses.

In addition to implementing agreements for services with local non-profit organizations, the Parks, Recreation and Neighborhoods Department has written "Memorandums of Understanding" (MOUs) with other City departments. These MOUs describe, in general, the services that are to be delivered to the community, quantify the services in measurable objectives and terms, and lists the funds dedicated to these activities. The staff then follows up on the conditions of the MOUs and monitor the progress of City departments, as well as non-profit agencies. The Police Department also submits written requests for disbursement of funds.

City staff conducts an on-site monitoring session annually to confirm the supporting documentation for use of funds and to confirm that the services were rendered as reported. Staff also addresses key issues that may arise from general programmatic concerns, audit findings, or public concern.

The City of Modesto, beginning with the funding cycle for Fiscal Year 2003-2004, changed the funding process for ESG and CDBG Public Services funding. A pre-qualification process was implemented. Agencies interested in applying for these funds were required to submit a complete pre-qualification package that included a specified list of document. Once the package is submitted, the agencies were notified of being pre-qualified to apply for the funding cycle. The CDBG Request For Proposals (RFP) was released in February, advertising the availability of ESG funds for the coming year. Eligible non-profit agencies were invited to attend a technical assistance conference, in which staff covered the eligible uses of CDBG and ESG funds and described the application process. Once the Request for Proposals (RFP) cycle was closed and proposals had been received, a review committee made up of staff, the president of the SCHSSC, and members of the Citizen's Housing and Community Development Committee read each proposal and provided funding recommendations based upon the following criteria:

- Soundness of the agency.
- Eligible activity.
- Alignment with community need.
- Quality of service.

Funding recommendations of the Review Committee were provided to the Citizens Housing and Community Development Committee, as well as the City Council. Once approved, these projects were included in the list of projects for the Annual Action Plan.

The City of Modesto has a Small, Minority Business Enterprise/Women's Business Enterprise (MBE/WBE) policy and procedures guideline that was accepted by HUD in May 1994. The City's Recreation and Neighborhood Services Division conducts outreach efforts throughout the year to inform licensed minority and women contractors and prospective MBE/WBE contractors about the advantages of making bids on rehabilitation projects, as well as new construction. The MBE/WBE item is included in the City's request for proposal process. For the City's rehabilitation program, applications are sent to non-profit agencies, construction firms, developers, and real estate agents that may qualify as MBE/WBE.

### **HOME Program**

- Complexes containing one to four HOME-assisted units are monitored not less than once every three years; complexes containing five to 25 units are monitored every two years, and projects containing 26 units or more are monitored every year. HOME-assisted rental units are inspected for rent, income, housing quality, and other affordability criteria in accordance with HOME requirements. Physical inspections are conducted to ensure that properties provide decent, safe and sanitary housing for all residents. In addition, all property management agents at each complex are expected to maintain physical conditions above the minimum maintenance standards as required by Section 8 Housing Quality Standards and local housing codes.
- Recapture/Resale for Home Ownership Activities: The City of Modesto has elected the recapture option during the affordability period. As such, the full amount of the HOME down payment assistance loan made to the homebuyer is recaptured and returned to the HOME program account. Loans are deferred. Full repayment (principal plus accrued interest) is due at the time the owner sells, transfers title, refinances, or discontinues using the home as a principal residence. The City monitors compliance with deferred loan terms.
- Tenant Based Rental Assistance: The City has provided Tenant-Based Rental Assistance through HOME funds for persons who are low-income and who are rent-burdened. This program has been discontinued, and is undergoing City review.
- Affirmative Marketing: The City of Modesto implemented an Affirmative Marketing Policy for use in its HOME program in order to comply with HUD fair housing objectives. Both the borrow/developer and the City share the responsibility to inform the public about federal fair housing laws. The City, through its monitoring of the HOME units, evaluates the effectiveness of the marketing efforts. The beneficiaries are held to the terms of the policy by reference in the HOME Loan Agreement and Trust Deed executed to secure the HOME loan.

### **Priority Needs Analysis and Strategies (91.215 (a))**

*1. Describe the basis for assigning the priority given to each category of priority needs.*

*2. Identify any obstacles to meeting underserved needs.*

3-5 Year Strategic Plan Priority Needs Analysis and Strategies response:

#### **1. Basis for Assigning Priority to Needs**

Refer to response to Item #2 in the General Questions section.

#### **2. Obstacles to Meeting Underserved Needs**

Refer to response to Item #3 in the General Questions section.

## **Lead-based Paint (91.215 (g))**

*1. Estimate the number of housing units that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and are occupied by extremely low-income, low-income, and moderate-income families.*

*2. Outline actions proposed or being taken to evaluate and reduce lead-based paint hazards and describe how lead based paint hazards will be integrated into housing policies and programs.*

3-5 Year Strategic Plan Lead-based Paint response:

### **1. Housing Units Containing Lead-Based Paint Hazards**

This estimate is based on the number of housing units constructed prior to 1970, as indicated in the HUD Comprehensive Housing Affordability Strategy (CHAS) table for Modesto. As of 2000, there were 635 housing units occupied by extremely low-income households (rental only), 2,574 units occupied by low-income households (own and rent), and 9,661 units occupied by moderate-income households (own and rent). National studies indicate that approximately 75 percent of these housing units contain a lead-based paint hazard. Therefore, a worst-case estimate is that a lead-based paint hazard exists in 476 housing units occupied by extremely low-income households, 1,931 units occupied by low-income households, and 7,246 units occupied by moderate-income households. The actual number is likely less, due to City programs that incorporate a lead-based paint hazard reduction component, as well as actions by individual property owners. (Source: HUD CHAS Data Book)

### **2. Actions to Evaluate and Reduce Lead-Based Paint Hazards**

City of Modesto staff has implemented the lead-based paint regulations effective September 15, 2000. Additionally, Senate Bill 460 (February 2003) and Final Lead Regulations by the EPA (July 2003) have been added to assist contractors and staff with becoming more knowledgeable with lead-based paint regulations. To assist City staff with becoming more knowledgeable with the regulations, the City's three housing rehabilitation specialists completed the Visual Assessment Course by HUD's Office of Lead Hazard Control. In order to have a guideline when working with lead-based paint, the City's rehabilitation staff developed a workbook to provide guidance through the process when lead-based paint is found or presumed to be present during construction. Since September 2002, one of the City's rehabilitation specialists became a California Department of Health Services (DHS) Certified Inspector/Assessor, and followed up to become a DHS Certified Supervisor in 2003.

The City has implemented a Lead-Based Paint Stabilization Grant Program for mandatory targeted areas designated by the City (refer to City of Modesto Annual Action Plan FY 2004-05, Appendix B). This program reimburses property owners for the costs of lead-based paint inspection reports, clearance reports, and paint stabilization work. This program is conducted as part of the City's Housing Rehabilitation Program.

In an effort to assist contractors, prospective contractors and other individuals with becoming certified for lead-based paint work, the City undertook the following actions:

- Published a display advertisement in local newspapers informing people of the free HUD-sponsored lead training, as well as sending letters to contractors and prospective contractors.
- Provided assistance to those needing help in enrolling for the training.
- Distributed English and Spanish versions of the EPA's pamphlet "Protect Your Family from Lead in Your Home" at neighborhood meetings in low-income neighborhoods.
- Held a training workshop for contractors on November 2, 2004.

## HOUSING

### Housing Needs (91.205)

*\*Please also refer to the Housing Needs Table in the Needs.xls workbook*

1. Describe the estimated housing needs projected for the next five year period for the following categories of persons: extremely low-income, low-income, moderate-income, and middle-income families, renters and owners, elderly persons, persons with disabilities, including persons with HIV/AIDS and their families, single persons, large families, public housing residents, families on the public housing and section 8 tenant-based waiting list, and discuss specific housing problems, including: cost-burden, severe cost-burden, substandard housing, and overcrowding (especially large families).

2. To the extent that any racial or ethnic group has a disproportionately greater need for any income category in comparison to the needs of that category as a whole, the jurisdiction must complete an assessment of that specific need. For this purpose, disproportionately greater need exists when the percentage of persons in a category of need who are members of a particular racial or ethnic group is at least ten percentage points higher than the percentage of persons in the category as a whole.

3-5 Year Strategic Plan Housing Needs response:

#### 1. Estimated Housing Needs

The primary method of establishing housing needs for the purpose of the Consolidated Plan is by examining the extent of housing problems by income level, tenure, and household type based on the HUD CHAS tables.<sup>1</sup> Refer to the Non-

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<sup>1</sup> Data for extremely low-, low- and moderate-income households were provided by the Comprehensive Housing Affordability Strategy (CHAS) tables for the city of Modesto prepared for HUD, based on U.S. Census data. The CHAS tables contain information on households experiencing housing problems, defined by HUD as overcrowding, without adequate kitchen or plumbing facilities, and paying over 30 percent of household income for housing costs (cost burden). A subcategory of cost burden is extreme cost burden, defined by HUD as paying over 50 percent of household income for housing costs.

Homeless Special Needs and Public Housing Needs sections for more information on special housing needs over the next five years.

In summary, these housing needs include:

### **Housing Problems**

- Households with Incomes Less than 30 Percent of median family income (Extremely Low Income). There were 6,647 households within this income category in Modesto. Of these households, 83.4 percent experienced housing problems. Approximately 84.7 percent of renter households reported having housing problems, compared with 79.3 percent of owner households.
- Household with Incomes between 30 and 50 Percent of median family income (Low Income). There were 7,222 households within this income category in Modesto. Of these households, 81.5 percent experienced housing problems. Approximately 88.1 percent of renter households reported having housing problems, compared with 70 percent of owner households.
- Households with Incomes between 50 and 80 Percent of median family income (Moderate Income). There were 10,923 households within this income category in Modesto. Of these households, 61.5 percent experienced housing problems. Approximately 62.1 percent of renter households reported having housing problems, compared with 60.9 percent of owner households.

### **Housing Problems by Household Type<sup>2</sup>**

The following information provides details on housing problems by households type, income, and tenure. Although the proportion of households that experience housing problems generally declines as income increases, there are exceptions. Household types with the highest proportion of housing problems (80 percent or more) are as follows:

- All households earning 30 percent or less of median income, except for elderly renters and "other" owners.
- All households earning between 50 and 80 percent of median income, except elderly renters and owners.
- Large family owners earning between 50 and 80 percent of median income.

#### **Renters with incomes up to 30 percent of median income.**

Elderly - 71 percent experienced housing problems, of which 71 percent experienced cost burden and 61 percent experienced extreme cost burden.

Small Related - 90 percent experienced housing problems, of which 88 percent experienced cost burden and 77 percent experienced severe cost burden.

Large Related - 96 percent experienced housing problems, of which 90 percent experienced cost burden and 73 percent experienced severe cost burden.

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<sup>2</sup> Percentages for this section are rounded to the nearest whole number.

Other - 80 percent experienced housing problems, of which 80 percent experienced cost burden and 70 percent experienced severe cost burden.

**Owners incomes up to 30 percent of median income.**

Elderly - 86 percent experienced housing problems, of which 86 percent experienced cost burden and 62 percent experienced extreme cost burden.

Small Related - 81 percent experienced housing problems, of which 81 percent experienced cost burden and 77 percent experienced severe cost burden.

Large Related - 85 percent experienced housing problems, of which 80 percent experienced cost burden and 78 percent experienced severe cost burden.

Other - 61 percent experienced housing problems, of which 61 percent experienced cost burden and 50 percent experienced severe cost burden.

**Renters with incomes between 30 and 50 percent of median income.**

Elderly - 78 percent experienced housing problems, of which 77 percent experienced cost burden and 40 percent experienced extreme cost burden.

Small Related - 90 percent experienced housing problems, of which 85 percent experienced cost burden and 34 percent experienced severe cost burden.

Large Related - 95 percent experienced housing problems, of which 77 percent experienced cost burden and 25 percent experienced severe cost burden.

Other - 86 percent experienced housing problems, of which 86 percent experienced cost burden and 43 percent experienced severe cost burden.

**Owners with incomes between 30 and 50 percent of median income.**

Elderly - 52 percent experienced housing problems, of which 52 percent experienced cost burden and 37 percent experienced extreme cost burden.

Small Related - 84 percent experienced housing problems, of which 84 percent experienced cost burden and 63 percent experienced severe cost burden.

Large Related - 97 percent experienced housing problems, of which 92 percent experienced cost burden and 52 percent experienced severe cost burden.

Other - 80 percent experienced housing problems, of which 88 percent experienced cost burden and 60 percent experienced severe cost burden.

**Renters with incomes between 50 and 80 percent of median income.**

Elderly - 57 percent experienced housing problems, of which 56 percent experienced cost burden and 21 percent experienced extreme cost burden.

Small Related - 59 percent experienced housing problems, of which 46 percent experienced cost burden and two percent experienced severe cost burden.

Large Related - 78 percent experienced housing problems, of which 36 percent experienced cost burden and two percent experienced severe cost burden.



Other - 60 percent experienced housing problems, of which 56 percent experienced cost burden and four percent experienced severe cost burden.

**Owners with incomes between 50 and 80 percent of median income.**

Elderly - 34 percent experienced housing problems, of which 34 percent experienced cost burden and 17 percent experienced extreme cost burden.

Small Related - 76 percent experienced housing problems, of which 73 percent experienced cost burden and 24 percent experienced severe cost burden.

Large Related - 84 percent experienced housing problems, of which 58 percent experienced cost burden and 11 percent experienced severe cost burden.

Other - 78 percent experienced housing problems, of which 78 percent experienced cost burden and 33 percent experienced severe cost burden.

In addition, housing needs were assessed for special groups. The Non-Homeless Special Needs and Community Development tables provide information on the housing needs of some of these groups. The Non-Homeless Special Needs section discusses housing needs for seniors, frail elderly, the physically and mentally disabled, persons with HIV/AIDS, single-parent households and large families. Housing needs of public housing residents are discussed in the Needs of Public Housing section.

**Substandard Housing Conditions**

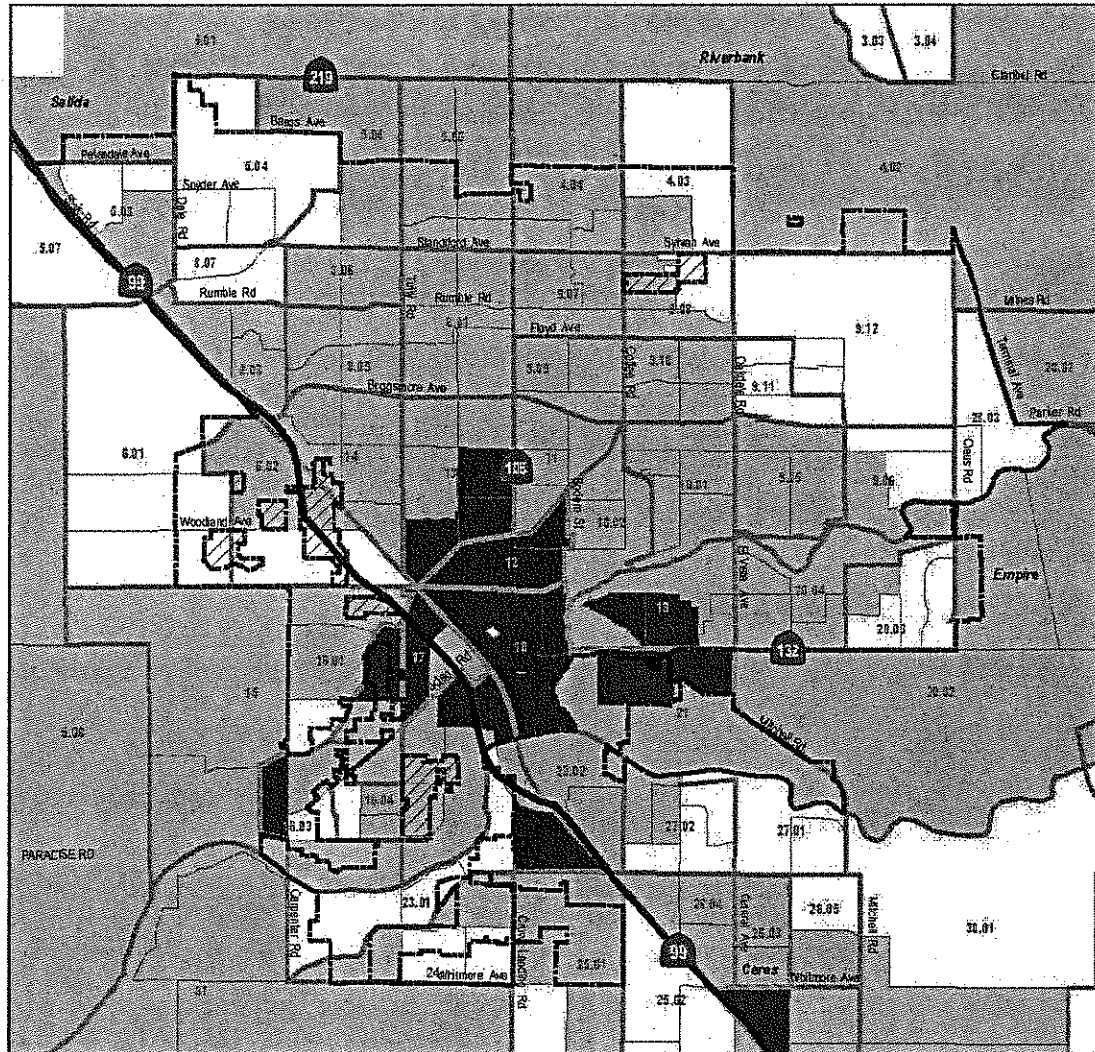
According to the City's Housing Element, approximately 64 percent of the housing stock was built between 1970 and 1990, and approximately 25 percent was built between 1950 and 1960. Approximately 11 percent of the City's housing stock is 50 years or older. Based on the number of housing units in the City that are currently or will be 30 years old or older in the near future, housing maintenance and rehabilitation will become an important issue in the City.

Overall, the housing stock in Modesto is well maintained. However, City staff has estimated that approximately 15,000 housing units require rehabilitation and 500 housing units require replacement. The areas with the oldest homes include the downtown area and areas north of downtown. Many of these areas have well-kept vintage homes that are among the City's most valuable, although median owner costs are among the lowest in the City. The median home values for the older housing stock northwest of Paradise Road and southwest of Highway 99 are some of the lowest in the City, as reported by the U.S. Census. Median home values in the Airport Way area west of Vista Road are in about the middle, compared to other census tracts in the City.

Many of these areas with older homes correspond with census tracts with higher concentrations of lower-income households. Lower-income homeowners and landlords renting to lower-income households are sometimes more apt to defer maintenance on their homes. Due to the age of housing stock in some of the neighborhoods near downtown, considerable maintenance would be necessary to maintain adequate living space conditions. The census tract that most represents the downtown and central portion of the City has the lowest median gross rental rate, and the Paradise/Highway 99 area is also more affordable relative to rents compared to almost any City census tract.

Figure 1 (Figure 2-10 from the 2004 Modesto Housing Element) shows the median age of the housing stock by census tract (2000 Census).

**Figure 1 Age of Housing Stock by Census Tract, 2000**



GIS maps prepared by: Cotton/Bridges/Associates  
 NORTH  
 Source: City of Modesto and 2000 Census (SF-1 and SF-3)  
 0 0.5 1 2 3 4 Miles



- Age of Housing Stock (Block Group)
- Less than 20 Years
  - 21 - 50 Years
  - Greater than 50 Years
- City Boundary
  - County Islands
  - Census Tracts (2000)

Figure 2-10

## **Overcrowding**

Overcrowding is a serious problem in Modesto, particularly for renter households and households living below the poverty level.

**Renters.** There were 26,787 housing units occupied by renters in 2000. Of these units, 4,783 had 1.01 or more occupants per room, and 887 had 2.01 or more occupants per room. In 2000, 6,264 renter households had incomes below the poverty level. Of these households, 1,776 lived in housing units with more than 1.01 occupants per room.

**Owners.** There were 38,316 housing units occupied by owners in 2000. Of these households, 2,911 had 1.01 or more occupants per room, and 325 had 2.01 or more occupants per room. In 2000, 1,986 homeowners had incomes below the poverty level. Of these households, 324 lived in units with more than 1.01 occupants per room.

Priorities were established for housing needs based in part on this housing market analysis. These priorities are listed in the Priority Housing Needs section of this document.

## **2. Disproportionate Housing Needs**

There are three specific ethnic groups that have a disproportionately greater housing need. HUD defines a "disproportionately greater need" as a proportion of households experiencing housing problems that is ten percent or greater than the overall percentage experienced by households in a specific income category.

- Pacific Islanders. All (100 percent) Pacific Islander households with incomes less than 30 percent of median family income reported having housing problems, compared to 81.7 percent for all households in this income category.
- Asians. Approximately 75 percent of Asian households with incomes between 50 and 80 percent of median family income reported having housing problems, compared to 61.5 percent for all households in this income category.
- Black. About 95.2 percent of Black households with incomes between 30 and 50 percent of median family income reported having housing problems, compared to 81.5 percent for all households in this income category. Among Black households between 50 and 80 percent of median family income, 73.4 percent reported having housing problems, compared with 61.5 for all households in this income category.
- Hispanics. Among Hispanic households, 72.2 percent with incomes between 50 and 80 percent of median family income reported having housing problems, compared to 61.5 percent for all households in this income category.

## **Priority Housing Needs (91.215 (b))**

*1. Identify the priority housing needs in accordance with the categories specified in the Housing Needs Table (formerly Table 2A). These categories correspond with*

*special tabulations of U.S. census data provided by HUD for the preparation of the Consolidated Plan.*

*2. Provide an analysis of how the characteristics of the housing market and the severity of housing problems and needs of each category of residents provided the basis for determining the relative priority of each priority housing need category.*

*Note: Family and income types may be grouped in the case of closely related categories of residents where the analysis would apply to more than one family or income type.*

*3. Describe the basis for assigning the priority given to each category of priority needs.*

*4. Identify any obstacles to meeting underserved needs.*

3-5 Year Strategic Plan Priority Housing Needs response:

### **1. Identification of Priority Housing Needs**

Refer to the Housing Needs table for identification of priority housing needs. Priority housing needs have been summarized from Chapter 1 (Introduction) and Chapter 2 (Housing Needs Assessment) of the City's 2004 Housing Element.

The City of Modesto faces a critical need to plan for and provide sufficient housing units, resources, and programs for our residents. Rising housing costs, a large anticipated population growth, and changing demographics illustrate the need to develop an approach and strategy to produce housing that matches the needs of Modesto residents.

Since the late 1990s, Modesto has experienced a substantial rise in housing costs for both rental and ownership housing. Despite a relatively high rate of housing production between 2000 and 2005, housing costs have continued to rise. This threatens to make the average home unaffordable to the average working family in the City. Diminishing housing affordability in San Francisco Bay Area jurisdictions has increased the demand for housing in Modesto, resulting in increased housing prices, increased cost burden for households, and lack of affordable housing production. Meanwhile, the City faces a need to continue upgrading housing and reinvesting in neighborhoods.

Under California law, cities and counties must plan to accommodate their "fair share" of a region's future housing need. Future housing need refers to the share of the regional housing need that has been allocated to the City. Regions are largely based on the geographic areas covered by councils of government, which prepare regional housing allocation plans. Modesto is located within a single-county council of governments, the Stanislaus Council of Governments (Stan COG). Stan COG's regional housing allocation plan covers a 7.5-year period from January 2001 through June 30, 2008.<sup>3</sup> Stan COG assigns future housing needs according to four income categories:

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<sup>3</sup> Stanislaus Council of Governments *2002 Regional Housing Needs Assessment*. Subsequent to the start of the period covered by the plan, the California Legislature extended the planning period by one year, to June 30, 2009.

- Very low-income (50 percent or less of median income);
- Low-income (50 – 80 percent of median income);
- Moderate-income (80 – 120 percent of median income); and
- Above moderate-income (over 120 percent of median income).

The major goal of the regional housing plan is to assure a fair distribution of housing among Stanislaus County and its cities so that every community provides an opportunity for a mix of housing affordable to all economic segments. The housing allocation targets are not building requirements, but goals for each community to accommodate through appropriate planning policies and land use regulations. Allocation targets are intended to assure that adequate sites and zoning are made available to address anticipated housing demand during the planning period, and that market forces are not inhibited in addressing the housing needs of all economic segments of a community. According to the Stan COG housing plan, the City of Modesto should accommodate 3,376 housing units affordable to very low-income households and 2,609 units affordable to low-income households. The City's allocation of 5,985 housing units for households earning 80 percent or less of median family income represents an annual need of approximately 800 housing units per year.

Within this broad context, Modesto has established the following housing priorities during the 2005 - 2009 Consolidated Plan period:

**Priority H-1.** Increase the supply of affordable rental housing.

**Priority H-2.** Provide homeownership opportunities.

**Priority H-3.** Preserve existing affordable housing stock.

**Priority H-4.** Continue to support fair housing.

Strategies to meet these priority needs include:

- Increase rental housing by partnering with the Modesto Redevelopment Agency (RDA) to develop housing units.
- Use HOME funds to leverage funding for the construction of new housing units.
- Use the Revolving Loan Fund to acquire property for affordable housing.
- Continue monitoring the Down Payment Assistance Program closely, along with the housing market, to ensure the program can benefit as many first-time homebuyers as possible while protecting the City's investment.
- Investigate preserving existing affordable housing covenants in Section 8 rental housing units.
- Complete the Highway Village Mandatory Housing Rehabilitation Target Area project.
- Begin a new City-wide Housing Rehabilitation Program, with fewer restrictions and higher loan limits, to encourage rehabilitation of existing housing units.

- Consider new Mandatory Target Area to coordinate with the Police Department's "Weed and Seed" designation, starting with Roselawn Area "A".
- Implement the recommendations in the City's Analysis of Impediments to Fair Housing Choice, currently being prepared.

## **2. Impacts of Housing Market on Determination of Priorities**

Housing market conditions have caused the City to assign a high priority to the construction of additional affordable housing, the preservation of affordable subsidized rental housing at risk of conversion to market-rate housing, and the conservation of the City's older housing stock, much of which is of lower cost than newer stock. Specific priorities include extremely low- and low-income special needs households (e.g., seniors, persons with disabilities, and large families), and low- and moderate-income families seeking to become homeowners. Goals and priorities are listed in the responses to General Questions, page 3.

To address these priorities, the City implements the following programs:

- **Disabled Access Assistance Program.** This program is designed to provide assistance for disabled persons in making their homes more accessible.
- **Emergency Home Repair Program.** This program is designed to repair or eliminate emergency health and hazardous conditions in homes.
- **Housing Maintenance Program.** This program is designed to eliminate health and safety hazards within the home and promote beautification.
- **Property Enhancement Program.** This program provides financial assistance to enable property owners to improve the exterior appearance of their properties.
- **Down-payment Assistance Program.** This program helps homebuyers purchase homes by providing financial assistance toward a down payment and closing costs.
- **Lease-to-own Program.** This is a new lease-to-own program that will pay down payment and closing costs.
- **Minor Home Repair Grant Program.** This program provides financial assistance for minor home repairs for owner-occupied single-family homes and mobile homes.

## **3. Basis for Assigning Priority to Needs**

Refer to response to Item #2 in the General Questions section.

## **4. Obstacles to Meeting Underserved Needs**

Refer to response to Item #3 in the General Questions section.

## **Housing Market Analysis (91.210)**

\*Please also refer to the Housing Market Analysis Table in the Needs.xls workbook

*1. Based on information available to the jurisdiction, describe the significant characteristics of the housing market in terms of supply, demand, condition, and the*

*cost of housing; the housing stock available to serve persons with disabilities; and to serve persons with HIV/AIDS and their families.*

*2. Describe the number and targeting (income level and type of household served) of units currently assisted by local, state, or federally funded programs, and an assessment of whether any such units are expected to be lost from the assisted housing inventory for any reason, (i.e. expiration of Section 8 contracts).*

*3. Indicate how the characteristics of the housing market will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units. Please note the goal of affordable housing is not met by beds in nursing homes.*

3-5 Year Strategic Plan Housing Market Analysis responses:

### **1. Significant Characteristics of Housing Market**

#### **General Housing Characteristics**

According to January 2004 data from the California Department of Finance, the City of Modesto had 72,017 housing units. Of that total, 50,524 were detached single-family homes and 4,010 attached single family homes. There were 6,239 multi-family units with two to four units, 9,253 multi-family units with five or more units and 1,991 mobile homes. Occupied housing units totaled 69,637, with a vacancy rate of 3.3 percent. The 2000 U.S. Census indicated that the total number of housing units in Modesto were 67,278. Therefore, the City's housing stock increased by 4,739 units between 2000 and 2004 - an approximately seven percent increase.

#### **Housing Cost and Affordability**

The San Francisco Bay Area is adjacent to Stanislaus County to the west. The expansion of the Bay Area economy during the 1990s attracted workers from all over the country and around the world, creating a high demand for housing. The expansion of the Internet business and high-technology sectors generated sudden wealth that pushed housing prices to new heights.

Between 1990 and 2000, housing prices have increased dramatically in the Bay Area, while the cost of housing in Stanislaus County has remained relatively affordable, although local housing costs began to rise faster than local incomes in the late 1990s (Figures 2 and 3). As Bay Area workers sought affordable housing in the San Joaquin Valley, housing prices in Stanislaus County have soared. Since 2000, the median home price in Stanislaus County has doubled, and the median rent has increased by over 50 percent. Essentially, the housing crisis that originated in the Silicon Valley and Bay Area has shifted eastward to the San Joaquin Valley.

Average wages for Bay Area workers have increased in tandem with the cost of living, making Stanislaus County homes inexpensive to those with jobs in Silicon Valley and other Bay Area employment centers. Many who seek affordable housing are willing to make the long commute between the Bay Area and Stanislaus County. The California Department of Transportation estimates that approximately 23,000 Stanislaus County residents make this long-distance commute. Trips over the Altamont Pass, the principal gateway between the San Joaquin Valley and the Bay Area, have increased by 400 percent since 1971, from 29,000 to 117,000 per day.

Figure 2 Median Home Value, California Counties, 2000

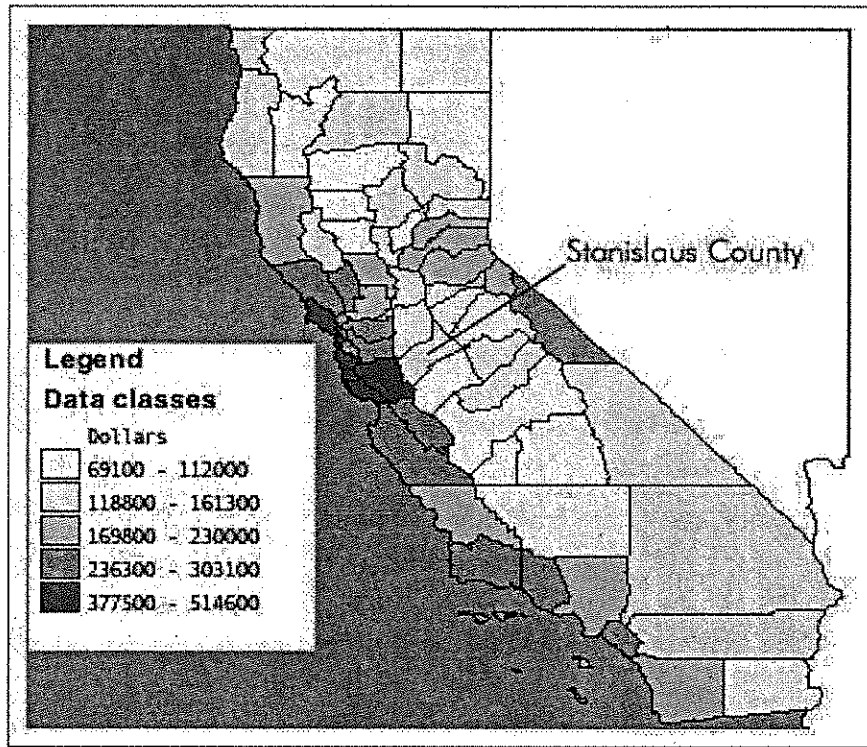
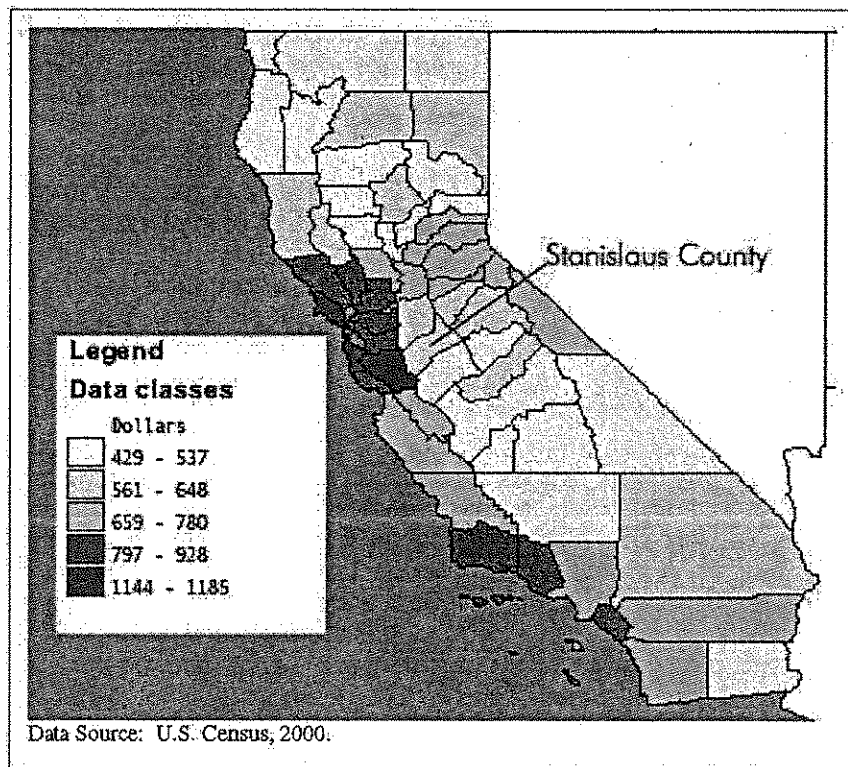


Figure 3 Median Rent, California Counties, 2000





The rising demand for housing in Modesto is driven in part by commuters from the Bay Area. With higher wages, Bay Area workers have the purchasing power to pay higher rents and high prices for homes, pushing the cost of housing in Modesto to levels beyond the reach of many existing Modesto residents.

Recent increases in housing costs in Modesto, with the lack of a commensurate increase in wages, have increased the challenge for low- and moderate-income households in finding adequate and affordable housing. The median price for single-family homes in 2002 was \$194,000, and the average price was \$209,000, neither of which the extremely low- or low-income family in Modesto could afford (Source: Dataquick, a real estate database). Only moderate-income households (those earning between 80 and 120 percent of median income) could afford the median-priced home as of 2002. By February of 2005, the median-priced home in Modesto had increased in value to \$280,000, an increase of 44 percent in three years. While high, the median price in Modesto was still lower than most other cities in Stanislaus County.

In Modesto, there are a small number of two-bedroom homes that would be affordable to the low-income small family and a larger number available to the moderate-income small family. Condominiums, while small in number in Modesto, represent a viable affordable market-rate housing option for some low-income households and most moderate-income households. According to sales data, there are a smaller number of these units that would be affordable and appropriately sized for low-income small families as well.

The median gross rent, as reported by the 2000 U.S. Census, was \$639. By 2002, the median rent was in the range of \$750 - \$850 per month. In March 2005, the median rent of 215 housing units listed by the Stanislaus County Housing Authority ranged from \$600 for a one-bedroom unit to \$1,700 for a five-bedroom unit. Median rents in Modesto were roughly similar. The overall median rent, approximately \$1,000, represents an increase of more than 50 percent since 2000, and over 25 percent since 2002. Rent levels are out of reach for extremely low-income and most low-income households, but are in the affordable range for households earning more than 80 percent of median income.

Tables 1 and 2 summarize home sales and price information through February 2005. Table 3 summarizes rental information for 215 listings in Stanislaus County.

**TABLE 1**  
**Home Sales Prices, 1997-2002**

Year	Median Sales Price	% Annual Change	Period	Average	% Annual Change	Period
1990	\$130,700	N/A	Annual	\$134,921	N/A	Annual
1991	N/A	N/A	Annual	\$138,480	3%	Annual
1992	\$116,000	N/A	Annual	\$135,200	-2%	Annual
1993	\$112,600	-3%	Annual	\$129,400	-4%	Annual
1994	\$109,000	-3%	Annual	\$124,600	-4%	Annual
1995	\$107,000	-2%	Annual	\$120,876	-3%	Annual
1996	\$108,000	1%	July	N/A	N/A	N/A
1997	\$107,000	-1%	July	\$122,736	N/A	July
1998	\$114,000	7%	July	\$132,796	8%	July
1999	\$119,950	5%	July	\$131,882	-1%	July
2000	\$132,500	10%	July	\$143,173	9%	July
2001	\$162,750	23%	July	\$173,027	21%	Annual
2002	\$194,000	19%	Annual	\$208,948	21%	Annual

Source: Dataquick Real Estate data, 2002; Central Valley Association of Realtors; 2000 U.S. Census.

**TABLE 2**  
**Stanislaus County Median Sales Prices**

	January 2005	January 2004	% Change
<b>Ceres</b>	\$289,000	\$215,000	34.4%
<b>Modesto</b>	\$288,000	\$230,000	20.9%
<b>Oakdale</b>	\$309,000	\$252,000	22.6%
<b>Patterson</b>	\$290,000	\$261,500	10.9%
<b>Riverbank</b>	\$275,000	\$200,000	37.5%
<b>Turlock</b>	\$302,500	\$240,250	25.9%

Source: Central Valley Association of Realtors at <http://www.cvar.org>

**TABLE 3**  
**Rents in Stanislaus County (March 2005)**

# of Bedrooms	# of Listings	Rent Range	Stanislaus County Median Rent	Modesto Median Rent
One	14	\$500 - \$750	\$600	\$600
Two	61	\$595 - \$1,295	\$725	\$725
Three	89	\$599 - \$1,650	\$1,100	\$1,050
Four	42	\$654 - \$1,800	\$1,250	\$1,200
Five/Six	9	\$1,300 - \$2,000	\$1,700	N/A

Source: Stanislaus County Housing Authority at [www.stancoha.org/rental\\_listing](http://www.stancoha.org/rental_listing)

**Housing Rehabilitation.** The City has identified several targeted neighborhoods for needed housing rehabilitation improvements. These neighborhoods include the 400 blocks of Maple, Oak and Pine Avenues located near the downtown area, Brenner Way, Strivens Avenue, Sparks Way, Whitcomb Way, Crommelin Avenue, Gravey Avenue, Budd Street and Earl Street in the Highway Village Community north of the

downtown area near Highway 99 and Oregon Avenue (City limits only), Santa Cruz Avenue, Empire Avenue, Thrasher Avenue, Benson Avenue, Larkin Avenue and Kerr Avenue in the Airport Area within the City. (Source: Parks, Recreation and Neighborhood Department, March 24, 2004).

## **2. Assisted Housing Units at Risk of Conversion**

The City of Modesto has assisted in the development of more than 22 affordable housing projects, including nine multi-family complexes that total 400 units, six single family developments that total 129 affordable units, and seven transitional housing projects that total 42 units. All of the multi-family developments with affordability covenants are recent projects, and none are at risk of converting to market-rate housing. In addition, eight affordable housing projects were developed with federal subsidies. Four of the eight are reserved for families and four are reserved for seniors. Two of the family and one senior Section 8 projects are annual contracts. According to HUD records, all federally assisted projects in Modesto have affordability restrictions/subsidy contracts that are due to expire in the next decade. A total of 735 units are at risk of losing Section 8 subsidies over the 10-year period. The Marple Manor contract expired November 2003, and the Ralston Tower contract expired November 2004. The Vinewood Apartments and the Cameron Villa Apartments contracts will expire in September 2005, and the Colonial Farms contract will expire in February 2013.

## **3. Influence of Housing Market on Affordable Housing Availability**

The growing gap between housing costs and local incomes has created an increasing need for affordable housing in Modesto. At the same time, existing housing that could be a source of affordability should be preserved so as not to increase the affordability gap even further. To that end, the City has established the following goals related to affordable housing:

- a. Focusing on Concerns of Persons in Low-Income Neighborhoods**
  - Support neighborhood efforts to eliminate slum and blight.
  - Strongly market and fund the Housing Rehabilitation Program, to preserve existing housing stock and to prevent further decline of older neighborhoods.
  
- b. Continued Efforts to Develop and Facilitate Construction of Affordable Housing**
  - Continuing to educate citizens about quality affordable housing developments that have been and are being built.
  - Continue the Down Payment Assistance Program.
  - Working closely with the City's Redevelopment Agency to ensure that Housing Set-Aside funds are used in a timely and efficient manner.
  - Evaluate the feasibility of inclusionary zoning and financial incentives for developers as recommended in the City's Housing Element.
  
- c. As Part of the Continuum of Care Consortium, Address Both the Short- and Long-Term Needs of the Homeless**
  - Increase options for long-term transitional housing, especially for certain affected groups such as single women with children, and those with mental health and chemical dependency issues.
  - Continue to increase affordable housing options so that very low-income working families will not be at-risk of homelessness.

- Apply for state and federal grants and other funding to provide transitional and permanent housing for homeless individuals and families.

As previously noted in the Housing Needs section (page 26), the City of Modesto offers programs to assist working families in gaining or maintaining a home. The City offers many government programs to assist with the provision of housing, using contracts that ensure that the units remain affordable. Publicly assisted housing in the City includes housing developments that were provided with low-interest loans and rent subsidies through various Department of Housing and Urban Development (HUD) and Federal Housing Administration (FHA) programs, City-assisted development, and other privately developed affordable housing using a variety of funding sources. According to the City's Housing Element, the City can maintain the existing affordable housing stock by preserving existing housing assisted units or replenish the affordable housing inventory with new units.

### **Specific Housing Objectives (91.215 (b))**

- 1. Describe the priorities and specific objectives the jurisdiction hopes to achieve over a specified time period.*
- 2. Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by the strategic plan.*

3-5 Year Strategic Plan Specific Housing Objectives response:

#### **1. Priorities and Objectives**

Refer to the Housing Needs table for priorities and objectives regarding housing needs.

#### **2. Use of Federal, State and Local Resources**

Refer to the Housing Needs table for a description of resources to be used to address identified needs.

### **Needs of Public Housing (91.210 (b))**

*In cooperation with the public housing agency or agencies located within its boundaries, describe the needs of public housing, including the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, and other factors, including the number of families on public housing and tenant-based waiting lists and results from the Section 504 needs assessment of public housing projects located within its boundaries (i.e. assessment of needs of tenants and applicants on waiting list for accessible units as required by 24 CFR 8.25). The public housing agency and jurisdiction can use the optional Priority Public Housing Needs Table (formerly Table 4) of the Consolidated Plan to identify priority public housing needs to assist in this process.*

3-5 Year Strategic Plan Needs of Public Housing response:

**Number of Public Housing Units**

The HACS has 433 public housing units in Modesto. The Housing Market Analysis table provides a breakdown of these units by occupancy status and by number of bedrooms per unit. In addition, the HACS has responsibility for 224 housing units classified as private housing stock.

**Physical Condition, Restoration, and Revitalization Needs**

As indicated in the Housing Market Analysis table, there are 36 public housing units in Modesto that are classified as substandard. These units are currently vacant and are undergoing rehabilitation. The HACS has established as an objective the completion of public housing modernization activities in a timely manner. Its Five-Year Plan includes a Capital Fund Program Action Plan as an attachment.

**Public Housing and Tenant-Based Section 8 Waiting Lists**

Public Housing. There are 3,143 families in Stanislaus County that are currently on the HACS's public housing waiting list, according to its Five Year Plan. It is not known how many of these families are from Modesto. Of the families on the public housing waiting list, approximately 57 percent have incomes less than 30 percent of median. Approximately 45 percent of these families have children.

Section 8 Program. According to the HACS, there are 1,643 applicants on the Section 8 waiting who live in in Modesto, compared to 2,655 Section 8 program participants who presently live in the City. Table 4 compares the characteristics of Section 8 voucher holders with those on the waiting list. About two-thirds of Section 8 participants and those on the waiting list have incomes less than 30 percent of median. Female-headed households, primarily single mothers, comprise the largest percentage of Section 8 participants, followed by families without a disabled head of household and families with a disabled head of household.

**TABLE 4**  
**Comparison of Section 8 Voucher Holders and Waiting List**

	Section 8 Vouchers	Section 8 Waiting List
<b>Household Type<sup>1</sup></b>		
Elderly	4%	4%
Single Disabled	22%	12%
Family w/Disabled	32%	10%
Other Family	74%	71%
Female Head of HH	77%	46%
<b>Income Level<sup>2</sup></b>		
Extremely Low (<30%)	64%	70%
Very Low (30% - 50%)	30%	26%
Low (50% - 80%)	6%	4%
<b>Ethnicity</b>		
White, Non-Hispanic	55%	---
Hispanic	23%	---
Black	11%	---
Asian	9%	---
Native Hawaiian	1%	---
American Indian	1%	---
<b>TOTAL NUMBER</b>	<b>2,655</b>	<b>1,643</b>

1. The percentages exceed 100 because a household may fall into more than one category.
2. Percentages do not add to 100 due to rounding. Information on ethnicity is not available for Section 8 applicants on the waiting list.

### **Public Housing Strategy (91.210)**

1. Describe the public housing agency's strategy to serve the needs of extremely low-income, low-income, and moderate-income families residing in the jurisdiction served by the public housing agency (including families on the public housing and section 8 tenant-based waiting list), the public housing agency's strategy for addressing the revitalization and restoration needs of public housing projects within the jurisdiction and improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of extremely low-income, low-income, and moderate families residing in public housing.

2. Describe the manner in which the plan of the jurisdiction will help address the needs of public housing and activities it will undertake to encourage public housing residents to become more involved in management and participate in homeownership. (NAHA Sec. 105 (b)(11) and (91.215 (k))

3. If the public housing agency is designated as "troubled" by HUD or otherwise is performing poorly, the jurisdiction shall describe the manner in which it will provide financial or other assistance in improving its operations to remove such designation. (NAHA Sec. 105 (g)).

3-5 Year Strategic Plan Public Housing Strategy response:

### **1. Public Housing Agency Strategy**

The HACS has prepared its Five-Year Plan for Fiscal Years 2005-2009, which proposes the following strategies for serving the needs of extremely low-, low- and moderate-income families, including those on the public housing and Section 8 waiting lists:

- Maximize the number of affordable units available to the HACS within its current resources.
- Increase the number of affordable housing units.
- Target available assistance to families at or below 30 percent of AMI, and from 30 to 50 percent AMI.
- Target available assistance to the elderly.
- Target available assistance to families with disabilities.
- Increase awareness of HACS resources among families of races and ethnicities with disproportionate needs.
- Conduct activities to affirmatively further fair housing.
- Continue to pursue collaborative projects with local agencies to increase the level of permanent supportive housing for persons with disabilities and special populations.
- Continue to participate as a lead agency in the Countywide Continuum of Care Plan to identify potential collaboratives, pursue local resources, and identify the greatest area of housing needs within Stanislaus County.

The HACS's Five-Year Plan contains details on how these strategies will be implemented. In addition, as described in the Needs of Public Housing section, the HACS intends to perform some remodeling, modernization, repair and repainting work at some of its public housing complexes.

### **2. Actions to Encourage Public Housing Resident Involvement in Management and Participation in Homeownership**

In its most recent Annual Plan, the HACS has the increase of customer satisfaction as an objective. Strategies to accomplish this objective include:

- Improve communications with residents and program participants through the use of newsletters and resident meetings.
- Monitor results from HACS's Customer Service Evaluation System and use the results to implement changes that improve customer service.
- Continue to provide staff training opportunities that support improvements in the quality of HACS's housing programs.

In addition, the HACS intends to implement the following objectives that are designed to encourage assisted households to make steps toward homeownership:

- Increase the number of Family Self-Sufficiency Program participants.
- Initiate and enroll families in a new Focused Self-Sufficiency Program in the public housing program.

- Expand and enter into partnerships that will provide self-sufficiency services in the HACS's community centers.
- Initiate an Individual Development Account program for public housing residents.
- Apply for IDEA Program funds, as opportunities become available, that will allow up to \$10,000 in down payment assistance for graduating Family Self-Sufficiency Program participants.
- Create a Lease-to-Own Homeownership Program for Family Self-Sufficiency Program participants.

### **3. "Troubled" Public Housing Agency**

The HACS is not classified as "troubled" by HUD, nor is it considered to be performing poorly.

### **Barriers to Affordable Housing (91.210 (e) and 91.215 (f))**

*1. Explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing are affected by public policies, particularly those of the local jurisdiction. Such policies include tax policy affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.*

*2. Describe the strategy to remove or ameliorate negative effects of public policies that serve as barriers to affordable housing, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this part, as determined by HUD, the unit of general local government may submit that assessment to HUD and it shall be considered to have complied with this requirement.*

3-5 Year Strategic Plan Barriers to Affordable Housing response:

The following analysis of barriers to affordable housing, and the City's strategies for the removal of such barriers, is a summary of Chapter 3 of the 2004 Housing Element (Constraints) and programs contained in Chapter 6 (Housing Plan) to address those constraints. Only those goals and programs relevant to the removal of barriers to affordable housing resulting from City policies are summarized in this section.

#### **1. Affect of Public Policies on the Cost of Housing.**

**Multi-Family Housing.** A potential constraint to the provision of sufficient multi-family housing is the allowance of single-family residential uses in the R-2 and R-3 zones as a matter of right. This concept is typically referred to as the "pyramid" zoning system, where most permitted uses in a lower density zone are permitted in the next higher density zone. Allowing single-family developments within R-2 and R-3 zones reduces the likelihood that vacant R-2 and R-3 properties will be developed for multi-family uses, which are permitted in these zones. Two housing developments where single-family housing was proposed on R-2 and R-3 properties were approved in 2002. Program 4.2 of the Housing Plan in this Housing Element proposes revisions to the Zoning Ordinance to eliminate this practice.



**Second Units.** The Zoning Ordinance allows the development of a second living unit in all residential districts. The purpose of permitting additional living units is to allow more efficient use of existing housing and to provide the opportunity for the development of small housing units to meet the special housing needs of seniors and others, while preserving the integrity of single-family neighborhoods. Approval of an accessory unit is permitted through a building permit. The City will be updating the Zoning Ordinance to reflect changes in State law (see Programs 2.2 and 4.2).

**Transitional Housing:** Transitional housing is typically defined as temporary (often six months to two years) housing for an individual or a family that is transitioning to permanent housing, or for youth who are moving out of the foster care system. While the Zoning Ordinance does not expressly address these types of facilities, a development application for a transitional housing shelter would most likely be considered as a multi-family residential development, and would be allowed if consistent with the locations and conditions of multi-family residential uses. Such uses may be provided for in R-2, R-3, and P-O zones with a Plot Plan approval by the Planning Commission. Transitional housing uses would also be permitted in the C-1, C-2, and C-3 zones with approval of a Conditional Use Permit by the Board of Zoning Adjustment. These uses may also be allowed as part of a Planned Development in a P-D zone. Currently, the City has seven transitional housing facilities, totaling 42 units. While the Zoning Ordinance should be updated to explicitly address transitional housing facilities (see Program 4.2), the City has a history of facilitating the provision of transitional housing opportunities.

**Farm Labor Housing:** Housing for migrant or short-term farmworkers, such as labor camps and specialized dormitory-style living facilities, are not specifically mentioned in the Zoning Ordinance. As with other forms of housing not explicitly mentioned in the Zoning Ordinance, an application for the creation of farmworker housing would be subject to a zoning interpretation from the Community and Economic Development Director or with decisions appealable to the Board of Zoning Adjustment. Housing for permanent or longer-term agricultural workers may be developed in any zone where residential uses are permitted, governed by the development standards placed on similar types of structures (for instance, if proposed as a medium density residential use, farm worker housing would be permitted in the R-2 zone).

**Residential Density.** The maximum permitted density, as defined in terms of the number of units per acre, varies by zone. The maximum density ranges from 8.7 units per acre in the R-1 single-family zone to 28 units per acre in the high-density R-3 zone. In addition, the Planned Development or Overlay zones have no prescribed maximum density. By permitting a range of densities, the City facilitates the development of a variety of housing types, ranging from low-density single-family residences to larger apartment complexes. However, as discussed above, the Zoning Ordinance currently permits single-family housing in multi-family zones, potentially reducing the density that can be realized in multi-family zones. The continued appropriateness of this practice should be reviewed.

**Parking Requirements.** The City's parking requirements for residential uses vary by type. Single-family homes are required to have two off-street parking spaces per home, plus an additional space if the property includes a two-car garage (one-half space extra if the garage is only one-car). If the single-family home has a second dwelling unit on the premises, then another space is also required. All other residential uses are required to provide two parking spaces per dwelling unit, plus

one recreational vehicle space for each 25 dwelling units. Guest parking is included in the requirements. The City offers flexible parking standards for housing for seniors and persons with disabilities. To facilitate the development of small-size units and mixed-use developments particularly along commercial corridors, the City will review its parking requirements for studio and one-bedroom units, as well as shared parking/off-site parking arrangements for mixed-use developments.

**Density Bonus.** Modesto offers a density bonus to developers who agree to set aside a portion of their housing units for low-income residents in accordance with state law. Two density bonuses were granted over the past ten years. The City revised its density bonus standards to comply with recent revisions to state law requirements, and reviewed its density bonus practices to ensure that the bonus provides an incentive for the production of affordable housing.

**Reasonable Accommodations for Persons with Disabilities.** State and federal housing laws encourage an inclusive living environment, where persons of all walks of life have the opportunity to find housing suited to their needs. As discussed earlier, the Zoning Ordinance permits a range of housing types suitable to special needs groups covered under the uses "Residential Care Facilities." Group homes serving six or fewer persons are permitted by right in all residential zones, and larger facilities (seven or more persons) are permitted in all residential zones with a Conditional Use Permit.

Nevertheless, opportunities exist for making changes to better facilitate the development of housing for persons with disabilities. For instance, all uses that are not listed within the Zoning Ordinance are subject to interpretation by either the Community and Economic Development Director or the Planning Commission. Many typical housing options for the disabled, including single-room occupancy hotels, transitional housing and the like, are not explicitly defined in the Zoning Ordinance and are therefore open to interpretation. The City may consider updating the Zoning Ordinance to define these types of housing and specify the conditions and process required to develop such facilities within the City. This can improve the clarity of the code and ensure that those seeking to provide housing and housing services for the disabled clearly understand the City's zoning and land use policies relating to these uses.

One potential constraint in the City's permit processes for reasonable accommodations is the lack of a specific procedure for processing such requests. The City will establish a formal process to provide individuals with disabilities reasonable accommodations in rules, policies, practices, and procedures that may be necessary to ensure equal access to housing (refer to Housing Element Program 4.3). The purpose will be to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning and building laws, rules, policies, practices and/or procedures of the City.

## **2. Strategies to Remove Barriers to Affordable Housing**

The following goals and implementation measures are from the City's 2004 Housing Element. Only those goals and programs relevant to the Consolidated Plan requirement to remove barriers to affordable housing are cited below.

**Goal 2: Maximize Housing Choice throughout the Community**

Program 2.1: Manufactured Housing

Pursuant to State law, the City will continue to permit manufactured housing/mobile homes in all residential districts, provided that they meet the same standards as conventional housing and are placed on a permanent foundation.

Program 2.2: Second Units/Accessory Units

The Zoning Ordinance allows the development of a second living unit in all residential districts. Currently, approval of a second unit is granted either by the Planning Commission or Zoning Administrator, depending on the zoning district in which it is proposed. Recent changes to State law (AB 1866) require that second units be allowed by a ministerial permit rather than a discretionary permit.

Program 2.5: Fair Housing Services

The City actively furthers fair housing in the community. Specifically, the City continues to support the Human Relations Commission in their activities to promote fair housing. The Human Relations Commission is a seven-member advisory group that meets bi-monthly to promote good human relations in the community and is staffed by the City Manager's Office.

**Goal 4: *Ensure Land Use and Zoning Procedures are Accommodating to Housing***

Program 4.2: Zoning Code Amendments

As part of this Housing Element update, the City has identified several revisions to the Zoning Code necessary to meet recent changes to State laws and to further facilitate the development of affordable housing and housing for persons with special needs. These include:

- Revision to the density bonus provisions to eliminate the low income requirement for senior projects and condominium projects to receive a density bonus in compliance with State law (Program 1.7);
- Revision to specifically identify in which zones transitional housing is permitted through a Conditional Use Permit subject to approval by the Board of Zoning Adjustment;
- Revision to reflect recent changes in State law regarding second units (Program 2.2);
- Revision to eliminate pyramid zoning system that permits single-family housing to be constructed in multi-family zones; and
- Revision to establish a formal procedure for persons with disabilities seeking reasonable accommodation (see Program 4.3).

Program 4.3: Reasonable Accommodation

The City will establish a formal reasonable accommodation process to provide individuals with disabilities, reasonable accommodations in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of this effort is to provide a clear and consistent process for individuals with disabilities to make requests for reasonable accommodation in order to obtain relief from the various land use, zoning, and building laws, rules, policies, practices and/or procedures of the City.

**Goal 5: Reduce Governmental Constraints**

Program 5.1: Multi-Family Developer Incentive Program

The Stanislaus County Housing Authority and non-profit sponsors of housing for very low-income households are exempt from the City's Capital Facilities Fees (developer fees). For multi-family projects with density bonuses, 20 percent of the project units must serve low-income households or 10 percent of the units must serve very low-income households. For these projects, developer construction fees are levied by deferring payment of Capital Facility Fees with 20 percent required down and five years to pay.

Program 5.2: Streamlined Application Review and Permit Processing

The City complies with the State-mandated Permit Streamlining Act, which ensures timely processing of planning development applications. The City building permit inspections and review have a minimal turnaround time, and no processing procedures result in extensive delays for affordable housing. The City Council has available to it the ability to declare a "shelter crisis" eliminating the requirement for a use permit for the establishment of an emergency shelter for any period of time so designated. By adopting such a declaration, the City may also suspend certain development standards and building code requirements that were non-safety in nature.

Program 5.3: Reduction of Parking Standards

In general, parking requirements in the City do not serve as a constraint to housing development. However, the City allows a reduction in parking standards for senior housing developments. The objective is to match parking standards with need to reduce costs. As the City begins to promote mixed-use developments along the commercial corridors, flexible parking standards may be adopted for mixed use projects and projects that involve small-size units.

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**HOMELESS**

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**Homeless Needs (91.205 (b) and 91.215 (c))**

*\*Please also refer to the Homeless Needs Table in the Needs.xls workbook*

*Homeless Needs— The jurisdiction must provide a concise summary of the nature and extent of homelessness in the jurisdiction, (including rural homelessness where applicable), addressing separately the need for facilities and services for homeless persons and homeless families with children, both sheltered and unsheltered, and homeless subpopulations, in accordance with Table 1A. The summary must include the characteristics and needs of low-income individuals and children, (especially extremely low-income) who are currently housed but are at imminent risk of either residing in shelters or becoming unsheltered. In addition, to the extent information is available, the plan must include a description of the nature and extent of homelessness by racial and ethnic group. A quantitative analysis is not required. If a jurisdiction provides estimates of the at-risk population(s), it should also include a description of the operational definition of the at-risk group and the methodology used to generate the estimates.*

3-5 Year Strategic Plan Homeless Needs response:

On June 26, 2001, the Modesto City Council approved the designation of the Stanislaus County Housing and Support Services Collaborative (SCHSSC) as the planning and coordinating body for homeless issues in Stanislaus County. The SCHSSC is composed of public and private entities concerned with providing safe, affordable housing access and supportive services for the people who are homeless, or at risk for homelessness. Staff from the Modesto Parks, Recreation and Neighborhoods Department responsible for administering HUD funding participates in this collaborative, which meets on a monthly basis. Responsibilities include:

- Preparing Stanislaus County's annual Continuum of Care Plan, and applies for funding through the Super NOFA.
- Collecting and reporting on data on the homeless population to HUD. Oversees the implementation of a Homeless Management Information System (HMIS) in Stanislaus County.
- Evaluating the effectiveness of existing homeless service programs and provides recommendations for change.
- Providing an arena for partnerships and collaboration for housing projects.
- Acting as a clearinghouse for information regarding homeless issues, affordable housing, etc.
- Seeking grant opportunities that will assist us in improving the condition and supply of the wide range of housing that is needed in our county.

The County's Draft Plan to End Long Term Homelessness, which has not yet been adopted by the County or the City of Modesto, states that long-term homelessness will make up approximately 10 to 20 percent of those who are homeless in any given year. It also estimates that 2,000-2,500 persons are homeless at any given time in Stanislaus County. No estimate was available for Modesto.

The Stanislaus County Continuum of Care consortium conducted a point-in-time count in January 2005 and included a survey of all shelter and county-wide emergency beds, institutions and wait lists. The purpose of the survey for this time period was to capture the largest number of homeless persons who would be utilizing a shelter facility. During the time the count was conducted, a large number of homeless who typically sleep along the riverbed were forced to vacate due to the dangers of high waters. As a result, a greater number of homeless utilized the homeless facilities during that time period, particularly the chronically homeless population.

Table 5 summarizes the results of the 2005 count. There were 1,613 homeless individuals, of which 484 were in emergency shelters, 194 in transitional housing, and 935 in unsheltered locations. Of the homeless individuals counted, 623 were in families, 675 were male individuals, and 263 were female individuals.

<b>Population</b>	<b>Emergency Shelter</b>	<b>Transitional Shelter</b>	<b>Unsheltered Interviewed</b>	<b>Unsheltered Observed</b>	<b>Total</b>
Individual Male	195	90	195	195	675
Individual Female	63	13	74	113	263
Individual Unknown	16	0	4	32	52
# of Families	63	39	91	9	202
# of Persons in Families	210	91	291	31	623
<b>Total</b>	<b>484</b>	<b>194</b>	<b>564</b>	<b>371</b>	<b>1,613</b>

Table 1A in the Continuum of Care Plan (CofC) indicates that, as of 2004, there were 628 beds for individuals in emergency shelters, transitional housing or permanent supportive housing, with 44 beds under development. According to the CofC, there is an unmet needs/gap for 1,784 additional beds for individuals. The CofC identifies that there were a total of 384 beds for persons in homeless families with children, with 149 beds under development. The CofC also identifies an unmet needs/gap for 1,664 additional beds for families. The numbers in the Unmet Need/Gap column represent the Continuum of Care's judgment on the need for additional beds under each category. The SCHSSC's Special Population Subcommittee determined the numbers for the Unmet Need/Gap column.

The Continuum of Care Homeless Population and Subpopulations Chart shows that there are 203 chronically homeless individuals, 118 severely mentally ill individuals, 183 chronic substance abusers, 25 veterans, 71 victims of domestic violence and youth (under 18 years of age). These individuals were quantified using the point-in-time count. This number indicates the number of people who were counted on any given day.

## **Priority Homeless Needs**

*1. Using the results of the Continuum of Care planning process, identify the jurisdiction's homeless and homeless prevention priorities specified in Table 1A, the Homeless and Special Needs Populations Chart. The description of the jurisdiction's choice of priority needs and allocation priorities must be based on reliable data meeting HUD standards and should reflect the required consultation with homeless assistance providers, homeless persons, and other concerned citizens regarding the needs of homeless families with children and individuals. The jurisdiction must provide an analysis of how the needs of each category of residents provided the basis for determining the relative priority of each priority homeless need category. A separate brief narrative should be directed to addressing gaps in services and housing for the sheltered and unsheltered chronic homeless.*

*2. A community should give a high priority to chronically homeless persons, where the jurisdiction identifies sheltered and unsheltered chronic homeless persons in its Homeless Needs Table - Homeless Populations and Subpopulations.*

3-5 Year Strategic Plan Priority Homeless Needs response:

**1. Homeless and Homeless Prevention Priorities.**

Based on identified homeless needs, the City of Modesto has established the following homeless priorities during the 2005 - 2009 Consolidated Plan period:

**Priority HM-1.** Address chronic homelessness.

**Priority HM-2.** Increase transitional housing.

**Priority HM-3.** Provide permanent supportive housing.

**Priority HM-4.** Prevent homelessness for those most at risk.

**Priority HM-5.** Provide intensive and coordinated case management.

Strategies to meet these priority needs include:

- Establish a "One-Stop Homeless Service Center" within the former Social Security Administration building at 1230 12th Street.
- Enter into "Master Leasing" arrangements with non-profit organizations and the County's Behavioral Health Department.
- Consider longer-term contracts for Direct Shelter Services for ESG or CDBG funding.
- Develop and adopt a ten-year plan to end long-term homelessness, and identify the number of units and the support services needed to assist the homeless.
- Increase options for long-term transitional housing, especially for certain affected groups such as women with children, and those with mental health and chemical dependency issues.
- Apply for federal and State grants and other special funding that is designed to increase shelter and transitional housing options for homeless individuals, such as State of California Proposition 46 funds.
- Support services and agencies listed in the Stanislaus County 2004 Continuum of Care Application.
- Fully implement the Homeless Management Information System (HMIS) to better identify gaps in service and to maintain accurate data about housing and service needs.

One of the highest priority needs in the County is permanent supportive housing and transitional housing for families and individuals who are homeless. Permanent, affordable housing that is tied to supportive services is a critical gap in Stanislaus County, particularly for people with disabilities, serious mental illness, chronic substance abuse and persons with AIDS. These are individuals that require intensive supportive services to maintain a stable housing situation over the long-term. In addition, many shelters cannot move families because of a lack of housing vouchers,

affordable permanent housing, or transitional housing, as well as a lack of supportive services to accompany permanent housing.

The County's CofC has identified the renewal of transitional housing and supportive services as vital, in order to continue addressing needs of homeless families and persons with chronic illness and substance abuse. A new supportive service for runaway youths is also a priority for the County. The CofC has identified gaps in the continuum of supportive services for youth, particularly those not currently supported through foster care or other youth service systems.

Project priorities were determined by rating criteria similar to the Notice of Funding Availability (NOFA) requirements, along with data collected in 2003 from the Special Populations Committee and additional data collected by the CofC Development Committee in June 2004, which identified the greatest needs and gaps in services. Additional criteria established was a ranking of application based on agency capacity to carry out the project, soundness of approach, need, coordination with other agencies to avoid duplication of services, leveraging of other resources, and the continued need of the project (for renewal projects only).

## **2. Priorities for Chronically Homeless Persons.**

"Chronically homeless persons" include individuals or families who have been homeless for a year or longer, or who have experienced four or more episodes of homelessness over a three-year period. A significant majority of this population is comprised of individuals or families with individuals who suffer from mental illness, substance abuse issues, HIV/AIDS, and other health conditions or disabilities. Members of this population have often been released from an institutional setting or incarceration, or from a support system such as foster care.

Communities and agencies in Stanislaus County have taken some specific actions towards ending chronic homelessness in the County. The CofC strategy to end chronic homelessness is implemented countywide by the SCHSSC. Activities and strategies in place are as follows:

- Identify and secure funds for permanent supportive housing;
- Review county-wide discharge planning policies and establish a committee to monitor discharge planning procedures;
- Expand upon existing collaboration between housing and supportive service providers;
- Advocate, provide public education, and raise awareness;
- Collect and analyze data on the chronically homeless population and their needs, including development and implementation of the HMIS;
- Continue research into best practices and technical assistance;
- Initiate further County-wide strategic planning; and
- Conduct and disseminate research on national best practices and lessons learned from other Continuum of Care plan strategies.

Much of the work to alleviate chronic homelessness occurs at the agency level, where service providers are interacting on a daily basis with this population. Strategies to end chronic homelessness are as follows:

- Develop new housing and manage tenant-based rental assistance programs;



- Increase the level of affordable housing within the County as funding opportunities arise;
- Increase the level of outreach services to identify and assist chronically homeless individuals;
- Provide direct services to people who are chronically homeless;
- Conduct outreach to people who are chronically homeless;
- Create venues for inter-agency collaboration so that key housing and supportive services providers can develop individualized strategies for people who are chronically homeless;
- Collect local data and assess local needs;
- Raise awareness and educate their communities;
- Conduct outreach to businesses, citizens, local government agencies, faith-based organizations, and service providers to inform them about the Continuum of Care and encourage their participation;
- Increase community-based services access to the chronically homeless population; and
- Contribute to data collection through participation in the HMIS system.

### **Homeless Inventory (91.210 (c))**

*The jurisdiction shall provide a concise summary of the existing facilities and services (including a brief inventory) that assist homeless persons and families with children and subpopulations identified in Table 1A. These include outreach and assessment, emergency shelters and services, transitional housing, permanent supportive housing, access to permanent housing, and activities to prevent low-income individuals and families with children (especially extremely low-income) from becoming homeless. The jurisdiction can use the optional Continuum of Care Housing Activity Chart and Service Activity Chart to meet this requirement.*

3-5 Year Strategic Plan Homeless Inventory response:

Stanislaus County and the City of Modesto offer a range of outreach assessment services to individuals and families experiencing homelessness. These services range from supportive housing, emergency housing, transitional housing, and permanent housing. According to the Continuum of Care document, as of 2004, there were 11 emergency shelters in the County. Four out of the 11 target youths both male and female, five shelters target males and one facility targets women. Currently, one facility is under development and it will serve males. There are currently 24 transitional housing facilities, targeting men, women, and families. No additional transitional facilities are in development at this time. There are currently five permanent supportive housing facilities in the County, and four more are under development. These facilities also target men, women, and families.

Other outreach and assessment include the Community Housing and Shelter Services (CHSS), Daily Bread Ministries, Golden Valley Health Centers Homeless Health Project, Doctors Medical Center Foundation, the United Way, and the County's Department of Mental Services, Behavioral Health and Recovery Services.

Further details on the Continuum of Care participating agencies, services, and clients can be found in the *2004 Stanislaus County Housing and Supportive Services Collaborative* application to the U.S. Department of Housing and Urban Development.

The application is available through the Housing Authority of Stanislaus County as the lead agency (<http://www.stancoha.org/>).

### **Homeless Strategic Plan (91.215 (c))**

1. *Homelessness— Describe the jurisdiction's strategy for developing a system to address homelessness and the priority needs of homeless persons and families (including the subpopulations identified in the needs section). The jurisdiction's strategy must consider the housing and supportive services needed in each stage of the process which includes preventing homelessness, outreach/assessment, emergency shelters and services, transitional housing, and helping homeless persons (especially any persons that are chronically homeless) make the transition to permanent housing and independent living. The jurisdiction must also describe its strategy for helping extremely low- and low-income individuals and families who are at imminent risk of becoming homeless.*

2. *Chronic homelessness—Describe the jurisdiction's strategy for eliminating chronic homelessness by 2012. This should include the strategy for helping homeless persons make the transition to permanent housing and independent living. This strategy should, to the maximum extent feasible, be coordinated with the strategy presented Exhibit 1 of the Continuum of Care (CoC) application and any other strategy or plan to eliminate chronic homelessness. Also describe, in a narrative, relationships and efforts to coordinate the Conplan, CoC, and any other strategy or plan to address chronic homelessness.*

3. *Homelessness Prevention—Describe the jurisdiction's strategy to help prevent homelessness for individuals and families with children who are at imminent risk of becoming homeless.*

4. *Institutional Structure—Briefly describe the institutional structure, including private industry, non-profit organizations, and public institutions, through which the jurisdiction will carry out its homelessness strategy.*

5. *Discharge Coordination Policy—Every jurisdiction receiving McKinney-Vento Homeless Assistance Act Emergency Shelter Grant (ESG), Supportive Housing, Shelter Plus Care, or Section 8 SRO Program funds must develop and implement a Discharge Coordination Policy, to the maximum extent practicable. Such a policy should include "policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons." The jurisdiction should describe its planned activities to implement a cohesive, community-wide Discharge Coordination Policy, and how the community will move toward such a policy.*

3-5 Year Homeless Strategic Plan response:

#### **1. Strategy for Developing a System to Address Homelessness**

The CofC Development Committee assessed the data provided from the 2003 Consumer Resource Survey and the 2004 Housing and Resource Survey, met to discuss the data, and determined County-wide priorities. Priorities were then shared with the Grant Review Committee to assist them in evaluating project applications.

The project rankings show an overall Countywide commitment to permanent supportive housing and meeting the needs of people who are chronically homeless.

Identified below are major strategies identified within the existing Continuum of Care Plan:

**Strategy 1: Permanent Supportive Housing/Homeownership - A Hand Up.**

This project, proposed by Habitat for Humanity, would provide permanent supportive homeownership opportunities for homeless persons with disabilities. This program would provide targeted homeownership assistance to this population along with supportive services from a consortia of six support services agencies specializing in services for families and the disabled population. The project would develop seven, three-bedroom single family dwelling units for a total of 25 beds. This project would address the highest priority need of permanent supportive housing for families, and fills the critical gaps of permanent supportive housing for people with disabilities, and housing and supportive services for people who homeless and seriously mentally ill and/or have a chronic substance abuse problem. However, this program did not received funding in the current funding cycle.

**Strategy 2: Permanent Supportive Housing – HALO Houses.**

This project, proposed by the Stanislaus Community Assistance Project (SCAP), will provide permanent supportive housing for chronically homeless individuals with HIV/AIDS. Approximately 71 percent of the funding request is specifically for leasing and operational costs. This project will provide four one-bedroom, three two-bedroom, and one, three-bedroom permanent supportive housing units. The units will be open-market rental units and the supportive services will primarily provided by SCAP, an agency which has been providing supportive services and housing to persons with disabilities for over 18 years. Other participating agencies in the monitoring include the Housing Authority, who will provide technical support and inspection services to the units, and homeless and disabled service providing agencies such as BHRS. This project addresses the highest priority need of permanent supportive housing and services for persons with HIV/AIDS.

**Strategy 3: HMIS Project – Stanislaus HMIS Project.**

The Housing Authority of the County of Stanislaus is submitting this project to complete development of an HMIS. The request for funding will allow the County to obtain software, support and maintenance, training, a project coordinator and part-time support staff to ensure the success of implementing a county-wide HMIS. Supportive services will be provided through the technology staff of BHRS and monitoring services will be provided through the Stanislaus County Redevelopment Agency (RDA). This RDA had made implementation of the HMIS a priority and has mandated that any recipient of CDBG, ESG, or local funds become a participant in the HMIS, thereby ensuring a greater level of data which can be used to assess services, gaps, and needs within the existing CoC System. City of Modesto staff is also working on this project.

**Strategy 4: Supportive Service Project – Families in Transition.**

This is a renewal project sponsored by multiple service providers. The first service is designed to break the traditional transitional housing philosophy of providing temporary housing with supportive services by providing permanent housing and "transitional" services (home-based case management). Families in transition services provide an essential link between homelessness and permanent housing through the provision of supportive services to homeless families and individuals,

addressing the gap of services between emergency shelter for homeless individuals and permanent housing. Such services include outreach, housing counseling, goal setting, and home-based case management.

**Strategy 5: Supportive Service Project – Pathways to Independence.**

This project is a new project proposed by Center for Human Services designed to increase the level of supportive services for youth transitioning out of foster care. This project provides transitional housing, vocational, and supportive services necessary to prepare youth out of foster care for greater independence. While there are existing programs in place, there is a great gap in the availability of transitional housing facilities for youth out of foster care and this project will serve to fill that gap in services for this population

**Strategy 6: Supportive Services Project - Stanislaus Homeless Collaborative.**

This project is a renewal project submitted by CHSS that is designed to address gaps in the community's Continuum of Care through a collaborative group of agencies providing supportive services to the underserved rural areas of Stanislaus County. CHSS, United Samaritans Foundation, and United Way are the collaborating agencies. United Samaritans provides meals and is the entity which provides outreach to the homeless population. Homeless individuals are then assisted through case managers stationed in the rural areas of the County to connect them with the appropriate homeless providers. CHSS, as the homeless service providing agency, then provides housing search assistance, case management services and referral services through United Way. This project has been in existence since 2000 and has provided an essential service within the CofC System.

**Strategy 7: Transitional Housing - Pathways to Hope.**

This renewal project, submitted by NIRVANA, is a transitional housing facility that provides housing and supportive services to the chronic substance abusers. This is a 12-bed facility which provides case management services, health services, treatment plans, and life skills counselors to stabilize homeless persons for transition into permanent housing and employment. This project will primarily provide transitional housing services for the chronically homeless population.

**Strategy 8: Supportive Services – Pathways to Recovery.**

This renewal project, submitted by NIRVANA, is another transitional housing facility that provides housing and supportive services to chronic substance abusers. This is NIRVANA's second 12-bed facility, which provide case management services, health services, treatment plans, and life skills counselors to stabilize homeless persons for transition into permanent housing and employment. This project will primarily provide transitional housing services for the chronically homeless population, and would create a greater gap in the continuum if unfunded.

**Strategy 9: Permanent Supportive Housing – Shelter plus Care Project #1.**

This renewal project, submitted by the Housing Authority of the County of Stanislaus, will continue to provide six permanent tenant-based rental units to persons who are homeless and disabled in Stanislaus County. Assisted households are comprised of individuals who are homeless and diagnosed with a mental illness, chronic substance abuse problem, and/or HIV/AIDS. This project has targeted individuals who are dually diagnosed. Support services are provided through BHRS and SCAP. The project addresses the highest priority need of permanent supportive housing for individuals with disabilities including serious mental illness and chronic substance abuse problems.

The County's CofC identifies the fundamental components necessary to identify, assess and support homeless individuals and families in the community. Emergency Assistance provides aid to prevent homelessness by providing funds for rent, security deposits, utilities and other basic needs. This component assists very low to low-income families who may be at risk for homelessness due to a job loss, illness or eviction. Many local and regional agencies in the County offer education, information and counseling that helps to prevent homelessness by providing referral services, housing counseling services and tenant advocacy to those very low- to low-income families, individuals with mental illness and/or disabilities, and persons with HIV/AIDS. Agencies that participate in the SCHSSC work to prevent homelessness through advocacy and awareness by offering legal aid services, fair housing and discrimination investigations.

As identified in the CofC, the SCHSSC plans to provide the following services:

- The County of Stanislaus plans to award thirty percent of Emergency Shelter Grant funds to agencies that provide prevention activities targeted to low-income families who are at risk of becoming homeless. The cities of Modesto and Turlock have also designated a portion of ESG funding to homelessness prevention.
- Children's Crisis Center plans to provide assistance to women and children who are homeless or at risk of becoming homeless.
- Interfaith Ministries plans to open an additional winter shelter to house families who are homeless or at risk of becoming homeless.
- Community Housing and Shelter Services is planning to secure funding to continue to provide homelessness prevention through financial assistance and education.
- Project Sentinel plans to increase awareness and advocacy by expanding its landlord/tenant program.

## **2. Strategy for Eliminating Chronic Homelessness**

According to the Continuum of Care, the primary contributing factors to chronic homelessness in Stanislaus County are substance abuse and serious mental illness, either undiagnosed or diagnosed with inconsistent use of treatment or use of prescribed medication. Many of these individuals are unemployable or unable to keep a job because of their disability (this also includes homeless youth). The cycle continues in that those individuals with substance abuse or mental illness disabilities often have poor rental histories and can have criminal backgrounds, which preclude them from obtaining admittance to federally subsidized housing.

It is essential to remove individuals from the homeless assistance system. Therefore, adopting a "housing first" approach to dealing with people who are chronically homeless is an essential first step to implementing an effective strategy for ending chronic homelessness. Once an individual's housing has been stabilized, then they can be connected with services that exist to meet the other needs that led to the housing crisis in the first place.

Institutional, regulatory and cultural obstacles must be overcome in order for the County to make progress toward the goal of ending homelessness. After permanent residence is obtained, support services for individuals and families must continue.

These services include but are not limited to various treatment and training opportunities.

As part of the Continuum of Care, a Ten-Year Plan Committee was established. The Corporation for Supportive Housing is in its final stages of assisting Stanislaus County in the development of its' ten-year plan to end chronic homelessness. This sub-committee has been meeting regularly to provide data and input into the development of the plan. The purpose of this plan is to meet the permanent supportive housing needs of the long-term or chronically homeless. The plan will be completed and adopted into the Continuum of Care's strategies to end chronic homelessness by June 2015. The Draft Plan to End Long Term Homelessness has been prepared, and the Priority Homeless Needs section of this document presents a summary of its strategies. However, this plan has not yet been adopted by the County or the City.

Communities and agencies in Stanislaus County have taken some specific actions towards ending chronic homelessness in the County and made progress towards the goals established. To ensure the Continuum of Care Plan for Stanislaus County remains on track in evaluating and meeting specific targeted goals, the CofC Development Committee recently incorporated as a task to begin a tracking progress toward meeting stated goals within the CofC plan. Specific actions taken by organizations within the SCHSSC toward meeting chronic homelessness goals include:

- Increase availability of affordable service-enhanced housing units in the County (permanent supportive housing).
- Bolster the comprehensive network of outreach and support services that must accompany permanent housing for people who are chronically homeless.
- Provide a one-stop homeless service center in the former Social Security Administration building on 12<sup>th</sup> Street.

Service providers interact on a daily basis with the chronically homeless population. The SCHSSC and its membership will share the responsibility of implementing the strategy to end chronic homelessness. The following actions to end chronic homelessness are as follows:

- Develop new housing and manage tenant-based rental assistance programs;
- Increase the level of affordable housing within the County as funding opportunities arise;
- Increase the level of outreach services to identify and assist chronically homeless individuals;
- Provide direct services to people who are chronically homeless;
- Conduct outreach to people who are chronically homeless;
- Create venues for inter-agency collaboration so that key housing and supportive services providers can develop individualized strategies for people who are chronically homeless;
- Collect local data and assess local needs;
- Raise awareness and educate their communities;
- Conduct outreach to businesses, citizens, local government agencies, faith-based organizations, and service providers to inform them about the Continuum of Care and encourage their participation;

- Increase community-based services access to the chronically homeless population; and
- Contribute to data collection through participation in the HMIS system.

### **3. Strategies to Prevent Homelessness for Individuals and Families with Children at Imminent Risk of Becoming Homeless.**

The County offers services for the prevention of homelessness. These include emergency assistance, education, information and counseling, and advocacy and awareness. Emergency assistance consists of various agencies providing emergency financial assistance to prevent homelessness by providing funds for rent, security deposits, utilities and medical and other basic needs. In addition to governmental assistance, other groups provide emergency assistance to persons in need. These include the Interfaith Ministries, The Salvation Army, Calvary Temple Care Center, The Love Center, and United Samaritans. These organizations provide emergency assistance for food and clothing. Seven communities within Stanislaus County provide food to their local residents through community food pantries. Twenty local churches also operate food pantries or similar programs that provide emergency food, clothing and other financial assistance to families in need.

Several agencies throughout the County offer education, information and counseling. These services include hotlines, tenant education and counseling and case management. Tenant advocacy agencies coordinate with the County's Sheriff's eviction unit or property owners to identify those facing eviction. The tenant advocacy agency provides outreach services and work with the family or individual to resolve or prevent eviction.

Agencies that participate in the SCHSSC work to prevent homelessness through advocacy and awareness. Members of the SCHSSC regularly make presentations to community organizations, schools, churches, clinics, hospitals, law enforcement and social service agencies to increase awareness about ways to prevent homelessness and the status of the region's homeless population. The SCHSSC promotes collaboration among the county service agencies in order to improve service delivery and prevent homelessness among low-income individuals and families. For example, one agency - Coalition on Homelessness, Stanislaus County - publishes a newsletter called The Curbside News, which serves as an excellent tool to share information on homeless issues in Stanislaus County.

Agencies throughout the County provide outreach services to people living on the streets and to persons living in shelters, jails, hospitals or other temporary housing. Outreach for those living on the streets include providing services to meet the immediate needs of an individual and making referrals to additional resources such as mental health or substance abuse programs. Outreach staff links persons living in temporary housing with housing services, beginning the process of achieving stable housing.

### **4. Institutional Structure to Carry Out Homelessness Strategy.**

The City of Modesto, through its CDBG program, provides funds for several agencies providing services to homeless persons. There are 17 agencies which receive CDBG funds to provide social services, shelter and food. The City of Modesto provides rental assistance through the HOME program. The ESG program provides funds to the City and Stanislaus County for shelter, rental assistance and rehabilitation of

shelter units. Housing Choice Vouchers are provided by the HACS, and there is a waiting list. A preference for homeless individuals will begin in fiscal year 2004-2005. Public housing is provided only if units are dedicated to homeless individuals. Stanislaus County offers various programs to achieve the goal of ending homelessness.

Many agencies, governmental and non-governmental, coordinate work efforts to implement their homelessness strategies. The City and County provide funds to several agencies which provide shelter, food and rental assistance. The Community Housing and Shelter Services (CHSS) is a private resource which provides housing counseling, referrals and homeless services. In addition to federal, state, local and private assistance, there are approximately 34 foundations that provide funds to various agencies. These include, but are not limited to, the United Way, Interfaith Ministries, the Salvation Army and the Red Cross. Many of the foundations provide annual grants which help support shelters and transitional, permanent and emergency housing. Other services which the foundations support include rehabilitative services, job counseling, teen shelters, family centers and emergency food programs.

#### **5. Activities to Implement Community-wide Discharge Coordination Policy**

There are several agencies in Stanislaus County which help ensure persons are not discharged directly from publicly funded institutions or systems resulting in homelessness. Telecare/SHOP is the County's primary agency which conducts extensive outreach to chronically homeless mentally ill individuals. Behavioral Health and Recovery Services (BHRS) provides treatment and discharge planning to adults with serious mental illness and/or chemical addiction. Telecare/SHOP has extensive policies in place to ensure that patients and mentally ill inmates are not discharged into inappropriate settings such as shelters, the streets, hotels or motels. The discharge planning process includes looking at a supportive or protective environment if the patient is expected to be incapable of independent living. Telecare/SHOP case managers work directly with BHRS to arrange appropriate follow-up services, including housing for the patients who are discharged.

Appropriate discharge settings include nursing homes, basic care facilities, adult foster care, and independent living. Telecare/SHOP assists individuals in completing applications for this and other mainstream resources such as Social Security prior to the patient's discharge. In addition, the Housing Authority will be collaborating with BHRS to provide Section 8 Vouchers for persons who are homeless and being discharged from institutions, hospitals, or jail facilities.

The County Social Services Agencies of Stanislaus County are responsible for ensuring that children and youth in foster care settings are returned to their families or to settings other than homeless circumstances. The Stanislaus County Community Services Agency, in collaboration with supportive service and housing providers, has developed programs to prevent youth from entering McKinney-Vento emergency shelter systems. Presently, there are four government and community-based projects designed to provide transitional to permanent supportive housing. Supportive services through Child Welfare includes an after-care social worker who connects the youth with services such as access to mainstream resources, education, financial, vocational and mental health/substance abuse services. Transitional and permanent supportive housing service programs are offered for



young adults, and young families through age 24, and one program is specifically designed for youth 17 to 19 years of age.

The California Department of Corrections recently developed the Police and Corrections Team (PACT) Program, which is required within each parole district statewide. This program, also referred to as Community Policing, is a nationally recognized partnership between law enforcement and local service providers to ensure that parolees are provided with a connection to adequate supportive and housing services to improve their success in reintegrating into the community. The goal is to begin the discharge planning process at the time of admission to a facility; however, this is not occurring consistently.

The SCHSSC is working with the coordinators of PACT and is in the process of establishing a Discharge Planning Sub-Committee. This committee will comprise of members who represent the mentally ill, substance abusers, youth out of foster care, disabled, and parolee populations who can identify the specific needs within each sub-population in order to create better discharge plans for these populations. This committee will be a liaison to the SCHSSC, Department of Corrections, local law enforcement, service providers, housing providers and other institutions or facilities. Based on results of the Continuum of Care, the SCHSSC will consider the needs in developing permanent supportive housing for inmates released from facility settings.

### **Emergency Shelter Grants (ESG)**

*(States only) Describe the process for awarding grants to State recipients, and a description of how the allocation will be made available to units of local government.*

3-5 Year Strategic Plan ESG response:

Since this section applies to states only, no response is required.

## **COMMUNITY DEVELOPMENT**

### **Community Development (91.215 (e))**

*\*Please also refer to the Community Development Table in the Needs.xls workbook*

*Identify the jurisdiction's priority non-housing community development needs eligible for assistance by CDBG eligibility category specified in the Community Development Needs Table (formerly Table 2B), – i.e., public facilities, public improvements, public services and economic development.*

*Describe the basis for assigning the priority given to each category of priority needs.*

- 1. Identify any obstacles to meeting underserved needs.*
- 2. Identify specific long-term and short-term community development objectives (including economic development activities that create jobs), developed in accordance with the statutory goals described in section 24 CFR 91.1 and the primary objective of the CDBG program to provide decent housing and a suitable living environment and expand economic opportunities, principally for low- and*

*moderate-income persons.*

*NOTE: Each specific objective developed to address a priority need, must be identified by number and contain proposed accomplishments, the time period (i.e., one, two, three, or more years), and annual program year numeric goals the jurisdiction hopes to achieve in quantitative terms, or in other measurable terms as identified and defined by the jurisdiction.*

3-5 Year Strategic Plan Community Development response:

### **1. Priority Non-Housing Community Development Needs**

As noted in the General Questions, Managing the Process and Citizen Participation sections, the City of Modesto identified community development priority needs based in part on surveys of residents and service providers. It also developed its priorities on needs as determined by City departments, and on analysis of statistics from sources such as the 2000 Census. The Community Development table contains projected needs of Modesto, the goals in meeting these needs, and the priorities assigned to these needs. For some items in the Community Development table, the City determined that no need existed.

General community development priorities established by the City include:

**Priority CD-1.** Infrastructure improvements in low-income neighborhoods.

**Priority CD-2.** Americans with Disabilities Act (ADA) accessibility improvements.

**Priority CD-3.** Community centers/recreation facilities in low-income neighborhoods.

**Priority CD-4.** Infrastructure improvements to attract job-creating businesses.

**Priority CD-5.** Comprehensive workforce training.

**Priority CD-6.** Business recruitment and retention.

**Priority CD-7.** Supportive services that allow for independent living by populations with special needs.

**Priority CD-8.** Supportive services combined with housing programs for homeless persons and families.

**Priority CD-9.** Training in life skills and job and language skills.

**Priority CD-10.** Child care services.

**Priority CD-11.** Programs for at-risk youth.

**Priority CD-12.** Transportation services for those with special needs.

Strategies to meet these priority needs include:

- Continue street paving in low-income areas as defined by HUD.
- Continue with installation of ADA curb cuts.

- Develop a Neighborhood Revitalization Strategy that will complement the "Weed and Seed" program. Components of this strategy will include the following:
  - Code enforcement
  - Housing rehabilitation
  - Police Department's "Beat Health" programs
  - Neighborhood clean-ups
- Continue to fund public services at the highest percentage allowed by HUD regulations.
- Combine housing and services for homeless populations.
- Investigate new program to increase child care opportunities to low-income families.
- Investigate the use of CDBG funds for addressing health care issues.

## **2. Basis for Assigning Priorities**

The City assigned priorities to its community development needs based upon results from a resident survey. It also used information obtained from responses to a service provider questionnaire, and from responses to a questionnaire distributed to City agencies.

## **3. Obstacles to Meeting Underserved Needs**

A lack of sufficient funding is the primary obstacle to meeting underserved needs. As the HUD entitlement grants cannot address all of the identified needs with entitlement dollars, additional funding is necessary. In recent years, the City has received funds from the HUD Section 108 Loan Guarantee Program to finance construction of a neighborhood center and renovation of a youth center. The City is also looking at other federal and State funding sources for its community development needs. However, due to budget problems at the federal and State level, there is no guarantee that adequate funding will be obtained.

Another obstacle is the lack of facilities to house service agencies that could be brought together to deliver more comprehensive and efficient services to clients. The City of Modesto has applied to the U.S. Department of Health and Human Services to take over the Social Security Administration building at 1230 12<sup>th</sup> Street, which has been declared surplus government property. The City plans to use the building as a one-stop shop for homeless service. The Stanislaus County Housing and Supportive Services Collaborative is also interested in using this building as its headquarters for a variety of collaborative agencies, both government and non-profit.

Finally, Modesto has suffered from an imbalance of jobs, particularly higher-paying jobs, in relation to housing, as much of the City's housing development since the late 1990s has been occupied by workers who commute to jobs outside Stanislaus County. The following narrative summarizes a discussion of employment trends in Modesto from Chapter 2 of the 2004 Housing Element.

**Employment Trends.** Between the 1990 and 2000 Census, service occupations had the largest employment increase in Modesto, which is typical of the time period for most cities in California. At the same time, the proportion of Modesto residents employed in farming and as machine operators/laborers decreased (Table 6). Overall, Modesto's employed population increased by 10 percent, while the overall population increased by 15 percent (Table 7). Major employers in Modesto include those associated with general government, education, agricultural products, and health services.

**TABLE 6**  
**Occupations of Modesto Residents, 1990 and 2000**

Occupation	1990		2000		% Change
	#	%	#	%	1990 - 2000
Managerial/Professional	16,729	24%	21,760	28%	30%
Sales, Technical, Admin.	23,274	33%	21,200	28%	-9%
Service Occupations	8,684	12%	12,206	16%	41%
Production, Craft & Repair	9,103	13%	12,349	16%	36%
Operators/Fabricators/Laborers	10,511	15%	8,079	11%	-23%
Farming, Forestry, and Fishery	1,362	2%	973	1%	-29%
Total Employed Residents	69,663	100%	76,567	100%	10%

Source: U.S. Census, 1990, 2000.

Note: Occupation categories changed slightly between the 1990 and 2000 Census.

**TABLE 7**  
**Major Employers in Modesto**

Employer	Type of Services
Bell-Carter Packaging	Packaging
California State University	Education
Community Services Agency GAIN	County Government
Con Agra Grocery Products	Canning
County of Stanislaus	County Government
Del Monte Corp.	Canning
Doctor's Medical Center	Hospitals
Duarte Nursery	Nurseries-Wholesale Plants and Trees
E & J Gallo Winery	Wineries
El Sol Newspaper	Advertising-Newspaper
Emanuel Medical Center	Hospitals
Foster Farms	Poultry Processing
Frito-Lay	Wholesale Food Products
Hershey Chocolate	Candy and Confectionery
Labor Ready	Employment Agencies
Memorial Medical Center	Hospitals
Modesto Bee	Newspaper
Modesto Junior College	Education

**TABLE 7**  
**Major Employers in Modesto**

Oak Valley Hospital	Hospitals
Patterson Frozen Foods	Frozen Food Processors
Prompt Care-Memorial Hospital	Hospitals
Stanislaus County Community Services	County Government
Stanislaus Food Products	Canning
Sutter Gould Medical Foundation	Physicians and Surgeons
Valley Fresh	Poultry Processing

Source: Data from the California Employment Development Department.

While some Modesto residents work in higher-paying occupations, many others work in the service sector, providing essential services to residents and businesses in the community. These residents may not be able to afford adequate housing in the City. Table 8 shows the average salary of selected jobs in Modesto. Many of these are low-paying jobs that fall within the lower-income categories. The City is expected to see the addition of an estimated 106,000 jobs by 2020, many of which, particularly those in the service sector, will be lower paying. Housing costs, as estimated by the median home price, have increased dramatically – by 37 percent in Modesto between 2000 and 2002. As a result, homeownership is becoming increasingly difficult to achieve for moderate-income working professionals, and is almost out of reach for low-income households.

**TABLE 8**  
**Modesto Annual Salaries Compared to County Average Income (2000)**

Occupation	Mean Annual Wage	% of County Average Income
Social and Community Service Managers	\$44,140	101%
Community and Social Services Occupations	\$36,863	84%
Child, Family, and School Social Workers	\$35,377	81%
Medical and Public Health Social Workers	\$50,531	115%
Health Educators	\$23,029	52%
Social and Human Service Assistants	\$27,015	62%
Clergy	\$16,657	38%
Preschool Teachers, Except Special Education	\$22,636	52%
Special Education Teachers, Middle School	\$54,796	125%
Emergency Medical Technicians and Paramedics	\$21,345	49%
Healthcare Support Occupations	\$23,344	53%
Home Health Aides	\$19,412	44%
Nursing Aides, Orderlies, and Attendants	\$18,721	43%
Dental Assistants	\$23,403	53%
Medical Assistants	\$27,956	64%
Child Care Workers	\$17,160	39%
<b>Total all occupations</b>	<b>\$30,977</b>	<b>71%</b>

Source: California Employment Development Department  
 Note: County Median Income in 2000 was \$43,900.

**Jobs-to-Housing Ratio**

Modesto’s jobs-to-households ratio is higher than that of San Joaquin County, at 1.1, according to Stan COG estimates, though it is unclear to what extent the jobs are geographically matched with the population (Table 9). The Census identifies 76,567 employed persons in Modesto, averaging 1.12 wage-earners per household. A jobs-housing ratio of 1.1 seems to indicate that the City does offer an adequate number of jobs. The jobs-housing issues confronting the City seem to relate more to the spatial mismatch between the jobs located in Modesto and the people working those jobs, as evidenced by the large number of commuters crossing the Altamont Pass daily. Of equal concern is the mismatch between the types of jobs offered and associated pay scales, and the costs of housing in the City.

**TABLE 9  
Jobs to Housing Ratio (2000)**

<b>Geographic Area</b>	<b>Households</b>	<b>Employment</b>	<b>Jobs to Households</b>
Ceres	10,967	12,128	1.1
Hughson	1,263	1,670	1.3
Modesto	67,959	75,645	1.1
Newman	2,047	1,883	0.9
Oakdale	5,778	4,923	0.9
Patterson	3,147	3,846	1.2
Riverbank	3,907	4,334	1.1
Turlock	18,658	19,766	1.1
Waterford	1,873	1,849	0.9
Unincorporated County	39,328	42,082	1.1
Total County	154,927	168,126	1.1

Source: Stan COG, 2002; U.S. Census, 2000.

**Local Economic Development Trends and Initiatives**

As discussed above, the jobs-to-housing ratio in Modesto is improving and is better on the aggregate level than in many other cities in the region. However, because of an increasing number of residents who work out of the City and County, and an increasing number of workers in Modesto who live elsewhere, traffic congestion is becoming worse, impacting the City’s ability to provide adequate transportation infrastructure and expand economic opportunities. The Inter-Regional Partnership (IRP), a partnership formed in 1998 consisting of 15 selected officials from 5 counties — Alameda, Contra Costa, San Joaquin, Santa Clara, and Stanislaus — indicates that the most effective incentives for economic development in job-poor areas would be those that:

- Improve their competitive position in the marketplace by reducing the cost of off-site improvements;
- Improve the quality of the workforce; and/or,
- Reduce the time for processing local development proposals.

In the City, though plenty of land may be zoned to allow economic development, the cost of providing infrastructure to this land, especially transportation infrastructure, is seen as a constraint to development. Adaptive reuse of redevelopment areas and existing buildings is a potential mechanism for economic development with less-burdening infrastructure costs. Modesto's Community and Economic Development Department has several programs intended to encourage economic activity that will benefit current and future residents:

- Modesto Redevelopment Project Area Incentives;
- Economic Development Revolving Loan Program;
- Economic Development Revenue Bonds; and
- Enterprise Designation Areas.

#### **4. Long-Term and Short-Term Community Development Objectives**

Long-term objectives to address community development needs include the following:

- Neighborhood revitalization - housing rehabilitation, neighborhood clean-up.
- Economic development - job and skills training, adult literacy, small business loan program, English as a Second Language, provision of infrastructure for the development of industrial parks, etc.
- Public services, with priority given to emergency food and shelter, youth services and health care.
- Provision of infrastructure and other capital improvements in low-income neighborhoods.

Short-term objectives that address the above long-term objectives include the following (reference to line items in Community Development table in parentheses):

##### Neighborhood Revitalization

- Housing rehabilitation loans to property owners in the City's two residential target areas (Highway Village and Airport Neighborhood) (Line 14A).
- Property enhancement program to enable very low- and low-income property owners to improve exterior appearance of their property (Line 14A).
- Paint and insulation rebate program that provides property owners an incentive to improve condition of their homes (Line 14A).
- Cover portion of salary for a City Building Inspector to perform necessary inspections, clearance and documentation work for City's target area housing rehabilitation and maintenance program (Line 14H).
- Staffing, services and supplies necessary to provide technical support and oversight of the City's housing maintenance programs (Line 14H).
- Installation of gates with locks in alleys in low-income neighborhoods, to prevent nuisance and criminal behaviors from occurring in these alleys (Line 03K).
- Assist neighborhood clean-up projects for the City's low-income residents, through placement of dumpsters in qualifying neighborhoods where an imminent health or safety risk is identified (Line 03K).
- Code enforcement officers that work in low-income census tracts, along with support staff (Line 15).
- Funding for eligible Community Based Development Organizations (CBDO) to carry out allowable neighborhood revitalization activities in a specific geographic area (Line 19C).

- "Weed and Seed" program, managed by Modesto Police Department, which reduces crime in designated area while encouraging positive activities (Lines 03K, 05I).

#### Economic Development

- Funding of an Administrative Support Officer to provide City input and oversight into programs operated by the Workforce Development Collaborative. The City is interested in developing a new workforce development program, which may include a partnership with Kaiser Medical Corporation for a nurse's assistant program (Line 21A).

#### Public Services

- General public services such as adult literacy services, United Way information and referral services, and case management for families and/or individuals who are homeless or at risk of homelessness (Line 05).
- Food programs for low- and moderate-income persons, including delivery of food to homeless individuals or referred clients temporarily living in hotels, and delivery of food to persons with HIV/AIDS (Line 05).
- Shelter services, including a seasonal homeless emergency shelter and a transitional shelter for women recovering from alcohol/drug addictions and their children (Line 05).
- Health services for disabled persons, mainly funding for medical equipment, adaptive aids or assistive devices for the DRAIL program (Line 05B).
- Child care services, including expansion of existing facilities and respite childcare for low-income at-risk children and families who are homeless (Line 05L).
- Youth services, including shelter for runaway or homeless youth (Line 05D).
- Crime awareness program that provides training to tenants and landlords on crime prevention in rental complexes (Line 05I).
- Funding for childcare services at shelter for abused, neglected and at-risk children (Line 05N).
- Fair housing and tenant/landlord counseling services to be provided by Project Sentinel (Lines 05J, 05K).

#### Infrastructure and Capital Improvements

- Installation of ADA-compliant curb ramps at priority intersections (Line 03L).
- Paving of streets in low-income areas where such amenities are non-existent or in a state of neglect (Line 03K).
- Retrofit of former Social Security Administration building on 12<sup>th</sup> Street for "one-stop shop" for homeless services (Line 03).
- Grants to neighborhood groups to carry out small infrastructure or beautification projects, if the beneficiaries are low or moderate income (Line 03).
- Funding support for the City's Property Agent to pursue the purchase of land or right-of-way for CDBG-funded projects (Line 01).

### **Antipoverty Strategy (91.215 (h))**

1. *Describe the jurisdiction's goals, programs, and policies for reducing the number of poverty level families (as defined by the Office of Management and Budget and revised annually). In consultation with other appropriate public and private agencies, (i.e. TANF agency) state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing*



*component of the consolidated plan will be coordinated with other programs and services for which the jurisdiction is responsible.*

- 2. Identify the extent to which this strategy will reduce (or assist in reducing) the number of poverty level families, taking into consideration factors over which the jurisdiction has control.*

3-5 Year Strategic Plan Antipoverty Strategy response:

### **1. Antipoverty Goals, Programs and Policies**

Providing opportunities for low-income families to improve their economic status is a focus of effort for the City. The City will work in this area in the following ways:

- Continue to work cooperatively with the local Workforce Investment Board, the Workforce Alliance, community colleges and other partners to implement innovative training programs in the City which address the needs of both families receiving public assistance and the working poor. The Workforce Alliance is a newly reformed coalition that brings together economic development efforts with workforce training efforts.
- Continue to provide staff support to the City's Workforce Development Program operated by the Community and Economic Development Department.
- Enhance relationships with other public agencies that work with low-income families through non-profit workgroups, to address the potential of joint applications for grants that address the needs of low-income families.
- Continue with efforts to increase the supply of affordable housing in the City. While the production and preservation of affordable housing on its own will not raise people's income or lift them from poverty, it does contribute to stabilizing living expenses for low-income families, which provides them with more discretionary income for other living expenses.

### **2. Extent to Which the Strategy Will Reduce Number of Poverty-Level Families**

The City's strategy for reducing poverty will be successful only to the extent that:

- Adequate state and federal funding is available for education, job training, and supportive service programs that will increase economic opportunity and self-sufficiency;
- Adequate state and federal funding is available for regional infrastructure necessary to support economic development; and
- Modesto's competitiveness in relation to other regional economies attracts employers and industries that create higher paying jobs.

Unfortunately, the City of Modesto has little or no direct control over these factors and can make only marginal improvement in the local rate of poverty through its use of federal and other funds.

## **Low Income Housing Tax Credit (LIHTC) Coordination (91.315 (k))**

*(States only) Describe the strategy to coordinate the Low-income Housing Tax Credit (LIHTC) with the development of housing that is affordable to low- and moderate-income families.*

3-5 Year Strategic Plan LIHTC Coordination response:

Since this section applies to states only, no response is required.

## **NON-HOMELESS SPECIAL NEEDS**

### **Specific Special Needs Objectives (91.215)**

*1. Describe the priorities and specific objectives the jurisdiction hopes to achieve over a specified time period.*

*2. Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by the strategic plan.*

3-5 Year Non-Homeless Special Needs Analysis response:

#### **1. Priorities and Specific Objectives for Non-Homeless Special Needs**

Refer to the Non-Homeless Special Needs table for a description of priorities and objectives regarding non-homeless special needs. A High priority has been assigned to the following:

- Elderly housing.
- Frail elderly housing and supportive services.
- Disabled persons housing.
- Housing and supportive services for persons with HIV/AIDS.

In addition, the City proposes to provide services for other special needs groups not listed in the Non-Homeless Special Needs table. These include large families, single-parent families, and farmworkers. The needs of these groups are discussed in the Non-Homeless Special Needs Analysis section below.

#### **2. Use of Federal, State and Local Resources**

Refer to the Non-Homeless Special Needs table for a description of resources to be used to address identified needs. In general, most non-homeless special needs for housing will be met by using CDBG and HOME funds in combination with the State of California's CalHOME funds and funds from the City's Redevelopment Agency. Supportive services would be funded primarily by the CDBG program, both with grants and by the revolving loan fund. Housing and supportive services for persons with HIV/AIDS would also receive HOPWA funds.

## **Non-Homeless Special Needs (91.205 (d) and 91.210 (d)) Analysis (including HOPWA)**

*\*Please also refer to the Non-homeless Special Needs Table in the Needs.xls workbook.*

1. *Estimate, to the extent practicable, the number of persons in various subpopulations that are not homeless but may require housing or supportive services, including the elderly, frail elderly, persons with disabilities (mental, physical, developmental, persons with HIV/AIDS and their families), persons with alcohol or other drug addiction, and any other categories the jurisdiction may specify and describe their supportive housing needs. The jurisdiction can use the Non-Homeless Special Needs Table (formerly Table 1B) of their Consolidated Plan to help identify these needs.*

*\*Note: HOPWA recipients must identify the size and characteristics of the population with HIV/AIDS and their families that will be served in the metropolitan area.*

2. *Identify the priority housing and supportive service needs of persons who are not homeless but require supportive housing, i.e., elderly, frail elderly, persons with disabilities (mental, physical, developmental, persons with HIV/AIDS and their families), persons with alcohol or other drug addiction by using the Non-homeless Special Needs Table.*

3. *Describe the basis for assigning the priority given to each category of priority needs.*

4. *Identify any obstacles to meeting underserved needs.*

5. *To the extent information is available, describe the facilities and services that assist persons who are not homeless but require supportive housing, and programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing.*

6. *If the jurisdiction plans to use HOME or other tenant based rental assistance to assist one or more of these subpopulations, it must justify the need for such assistance in the plan.*

3-5 Year Non-Homeless Special Needs Analysis response:

### **1. Estimate of Persons in Subpopulations Requiring Housing and Supportive Services**

Refer to the Non-Homeless Special Needs Table for estimates of persons in need. The following narrative summarizes the estimated number and need of special population groups. Information contained in this section are from the City's 2004 Housing Element, unless otherwise noted.

#### **Special Needs Groups**

Certain groups have greater difficulty in finding acceptable, affordable housing due to special circumstances relating to employment and income, household characteristics, and disabilities. Special needs groups, for the purposes of this analysis, include:

- Seniors.

- Persons with disabilities.
- Single-parent households (particularly female-headed households with children).
- Large families.
- Agricultural workers.
- Individuals with alcohol or other drug addiction.
- Individuals with severe mental illness.
- Persons with HIV/AIDS.

Each special needs group has particular housing needs. While single mothers with children continue to outnumber single fathers with children, single-father households experienced the largest increase of the special needs populations, at 78 percent. Single mothers with children increased in the City by 40 percent and represented 74 percent of the single-parent households with children in 2000. Farmworkers in Modesto decreased in population, with a migration toward unincorporated areas of the County.

#### **Persons with Disabilities**

Physical, mental, and/or developmental disabilities may prevent a person from working, restrict one's mobility, or otherwise make caring for oneself difficult. Individuals with physical and mental disabilities often have special needs related to housing that go unmet by the private housing market. Special issues relate to inability to earn a sufficient income for market rate housing, the lack of accessible and affordable housing, and the need for supportive services.

The 2000 Census documented the following disabilities: sensory, physical, mental, self-care, going-outside-home, and employment. Due to the large range of disabilities recorded, the proportion of residents with one or more disabilities reported by the 2000 Census generally is larger than that reported in the 1990 Census. According to the 2000 Census, more than 38,000 residents in Modesto had one or more disabilities, representing approximately 22 percent of the total population (Table 10). However, almost half of the non-senior adults with disabilities are employed.

Among the Modesto children with disabilities, most are inflicted with mental disabilities, which include development disabilities. Among the disabled persons age 16 to 64, physical disabilities, going-outside-home disabilities, and employment disabilities are most common. Seniors age 65 or above are more impacted by physical and going-outside-home disabilities than other types of disabilities. To accommodate the housing needs for persons with disabilities, housing designs must be particularly sensitive to the constraints caused by physical and sensory disabilities. Modesto has a number of State-licensed community care facilities to meet the needs of persons with special needs, including those related to physical and mental disabilities.

**TABLE 10**  
**Disability Status of Modesto Residents Aged 5 or More**

Disability Status	Total	Male	Female
Age 5 to 15	36,734	18,667	18,067
With a Disability	2,285	1,485	800
No Disability	34,449	17,182	17,267
Age 16 to 20	14,567	7,105	7,462
With a Disability	2,229	1,124	1,105
Employed	42%	47%	37%
Not Employed	58%	53%	63%
No Disability	12,338	5,981	6,357
Age 21 to 64	102,510	49,370	53,140
With a Disability	24,593	12,408	12,185
Employed	50%	58%	41%
Not Employed	50%	42%	59%
No Disability	77,917	36,962	40,955
Age 65+	19,727	7,975	11,752
With a Disability	9,250	3,574	5,676
No Disability	10,477	4,401	6,076

Source: U.S. Census 2000.

Note: Totals may deviate slightly from 100% count of population.

**Senior Households**

Senior persons often have special housing needs for three key reasons: income, health care costs, and physical disabilities. Some of the most important issues for seniors are presented in Table 11. Among the senior population in Modesto, 27 percent of all seniors live alone (Table 12). This proportion is significantly higher than in California and indicates a need for housing options designed to meet senior needs.

**TABLE 11**  
**Housing Issues of Special Importance to Seniors**

Senior Issues	Description	Incidence in Modesto
Fixed/Limited Income	Many seniors have a limited, and/or fixed income from which they pay for health care, housing, and other expenses.	Approximately 33 percent of senior households in Modesto have low or very low incomes.
Disabilities	Seniors have physical disabilities at a higher rate than does the general population. Senior homeowners, particularly elderly women, may require assistance in performing regular home maintenance or repair activities due to physical limitations or disabilities.	Out of the senior population in the City, 37 percent have a disability.
Cost Burden	Limited income and a lack of affordable housing leads to a cost burden (more than 30 percent of one's income spent on housing).	61 percent of renter senior households in the City experience a housing cost burden.

**TABLE 12  
Senior Population**

Senior Population Category	Modesto		California % of Senior Persons
	Number of Persons	Percent	
<b>Total</b>	20,962	100%	100%
<b>In households</b>	19,325	92%	95%
In family households	13,146	63%	67%
Householder	6,867	33%	34%
<b>In non-family households</b>	6,179	30%	28%
<b>Living alone</b>	5,574	27%	7%
<b>In group quarters</b>	1,637	8%	5%
Institutionalized population	1,144	5%	3%
Noninstitutionalized population	493	2%	1%

Source: U.S. Census, 2000.

Many senior households in Modesto pay more than 30 percent of their often-limited and small incomes on housing. According to the 2000 Census, 26 percent of the senior owner households and 59 percent of the senior renter households assumed a housing cost burden of more than 30 percent of their incomes. Affordable housing opportunities for seniors, particularly those who rent, are needed in Modesto. Several housing developments in the City offer affordable housing for seniors. These include the Sherwood Manor and Conant Place.

The special needs of seniors can be met through:

- Congregate care;
- Other senior housing with supportive services;
- Transportation services;
- Architecture to accommodate disabilities;
- Rent subsidies;
- Shared housing programs; and
- Housing rehabilitation assistance.

Social and supportive services are available from the City's Parks, Recreation and Neighborhoods Department, as well as the Stanislaus County Department of Social Services. The City's Senior Citizens Center offers recreational and social activities, driving courses, tax consulting, health exams, immunizations, lunch program, and a resource and referral service. Several retirement communities throughout Modesto offer assisted living in for-rent and for-purchase units. The Salvation Army's Senior Information and Referral Program helps seniors with issues related to financial planning, health, and housing assistance. The Stanislaus County Area Agency on Aging<sup>4</sup>, which provides information and referral services, as well as advocating for

<sup>4</sup> Area agencies on aging are non-profit organizations established in each of California's 58 counties (with several exceptions), including Stanislaus County, to coordinate programs for

senior needs locally, is located in Modesto. Also in Modesto is the Services to Older Adults Advisory Council (STOAAC), which consists of local service providers and senior advocates. The County's Department of Aging and Veterans Services provides staff support for STOAAC.

### **Single-Parent Households**

Single-parent households, particularly female-headed households often face difficulty in finding adequate and affordable housing, due to their single incomes. Female-headed households also tend to earn lower incomes. Compared to two-parent households, single parents also must dedicate a larger portion of their limited incomes to child care, food, and health care expenses. According to the 2000 Census, Modesto had 8,122 single-parents with children under the age of 18. Specifically, 5,998 (74 percent) were female-headed families and 2,124 (26 percent) were male-headed families. Provision of affordable family housing near transit centers and child care and other supportive services helps address the housing needs of this special group. Needs often identified specifically with female-headed households include child care and after-school care/programs.

### **Large Families**

Large households, defined as those with five or more persons, have a need for larger dwelling units, which are often in limited supply and more expensive. To save money for other basic necessities, many lower-income large households live in overcrowded apartments or homes. According to the Census, 10,054 large households resided in Modesto, representing approximately 16 percent of all households in the City. Among the large households, 5,760 (57 percent) were owner-households and 4,294 (43 percent) were renter-households. Generally, these households require dwelling units with three or more bedrooms for adequate housing. Approximately 76 percent of owner-occupied units have 3 or more bedrooms, but only 27 percent of renter-occupied units have 3 or more bedrooms. Availability of rental housing may be a problem for large families. According to CHAS data, approximately 76.6 percent of large renter households experienced housing problems (approximately 3,242 households), while 53.5 percent of large owner households experienced the same (approximately 3,069 households).

To address overcrowding, communities can provide incentives for developers to build larger apartments with three or more bedrooms that can accommodate larger households. Often, the shortage of large rental units can also be alleviated through the provision of affordable ownership housing, such as condominiums coupled with homeownership assistance. However, since 1990, only 10 percent of housing built was multi-family housing.

The threat of litigation over construction defects has been a major constraint to multi-family condominium housing construction. Recent legislative changes allow developers to negotiate and mitigate construction defects before going to court, which may relieve some of the concerns for builders, freeing up the for-sale multi-family housing market.

### **Agricultural Workers**

Agricultural workers are traditionally defined as persons whose primary incomes are earned through permanent or seasonal agricultural labor. Permanent farm laborers

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seniors that promote independent living. The Stanislaus Area Agency on Aging coordinates the delivery of services to older adults through the California Department of Aging.

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work in the fields, processing plants, or support activities on generally a year-round basis. When workloads increase during harvest periods, the labor force is supplemented with seasonal labor, often supplied by a labor contractor. For some crops, farms employ migrant workers, defined as those whose travel distance to work prevents them from returning to their primary residence every evening.

Farmworkers work in two major types of situations: farm services, which have higher rates of pay and are less seasonal, and farm production workers. The following addresses only farm production workers. The housing needs of those employed in farm production differ from the rest of the population due to:

- The seasonal nature of farm employment;
- Typically low wages; and
- Language barriers

Between 1990 and 2000, the number of farmworkers in Stanislaus County decreased by approximately 24 percent from 12,000 to 10,000, and the countywide farmworker population in 2008 is estimated at approximately 6,660, representing another 30 percent decline. Similarly, the number of farmworkers residing in Modesto decreased by 45 percent during the 1990s. As of 2000, most farmworkers in the County lived in the unincorporated areas, but approximately 1,351 lived in Modesto, representing 0.3 percent (less than one-third of one percent) of the City population. Planning for low-and very-low-income households as a part of the Housing Element update and continued implementation of fair housing programs will provide housing opportunities for farmworkers wishing to live in Modesto.

#### **Individuals with Alcohol or Other Drug Addiction**

Based on adult alcohol and drug treatment admissions data for Stanislaus County published by the California Department of Alcohol and Drug Treatment Programs, it is estimated that Modesto has approximately 2,000 individuals with alcohol or drug addictions. This estimate assumes that Modesto has 42 percent of the countywide cases based on its proportion of the countywide general population.

#### **Individuals with Severe Mental Illness**

It is estimated that there are 6,800 cases of severe mental illness in Modesto, based on 2004 countywide data from the California Department of Mental Health. This estimate assumes that Modesto has 42 percent of the countywide cases based on its proportion of the countywide general population. According to the U.S. Center for Mental Health Services, severe mental illness is defined as any psychiatric disorder during present during the past year that seriously interfered with one or more aspects of a person's daily life.<sup>5</sup>

#### **Persons with HIV/AIDS**

According to data from the California Office of AIDS, there are 313 persons with AIDS and 199 persons with HIV in Stanislaus County, as of February 2005. It is not known how many of these persons reside in Modesto. However, given its population and the availability of services for such persons, Modesto is likely to have a majority of the persons with HIV/AIDS in Stanislaus County.

## **2. Priority Housing and Supportive Service Needs**

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<sup>5</sup> Crystal Kuntz, "Persons with Severe Mental Illness: How Do They Fit Into Long-Term Care," May 5, 1995, U.S. Department of Health and Human Services.



Refer to the Non-Homeless Special Needs table for identification of priority needs.

### **3. Basis for Assigning Priority to Needs**

Refer to response to Item #2 in the General Questions section.

### **4. Obstacles to Meeting Underserved Needs**

Refer to response to Item #3 in the General Questions section.

### **5. Description of Facilities and Services**

Refer to the Continuum of Care application for Stanislaus County. An summary of services and facilities from the application is contained in Attachment C.

### **6. Justification of Use of HOME for Other Tenant-Based Rental Assistance**

The City does not propose to use HOME funds for tenant-based rental assistance.

## **Housing Opportunities for People with AIDS (HOPWA)**

*\*Please also refer to the HOPWA Table in the Needs.xls workbook.*

*The Plan includes a description of the activities to be undertaken with its HOPWA Program funds to address priority unmet housing needs for the eligible population. Activities will assist persons who are not homeless but require supportive housing, such as efforts to prevent low-income individuals and families from becoming homeless and may address the housing needs of persons who are homeless in order to help homeless persons make the transition to permanent housing and independent living. The plan would identify any obstacles to meeting underserved needs and summarize the priorities and specific objectives, describing how funds made available will be used to address identified needs.*

*The Plan must establish annual HOPWA output goals for the planned number of households to be assisted during the year in: (1) short-term rent, mortgage and utility payments to avoid homelessness; (2) rental assistance programs; and (3) in housing facilities, such as community residences and SRO dwellings, where funds are used to develop and/or operate these facilities. The plan can also describe the special features or needs being addressed, such as support for persons who are homeless or chronically homeless. These outputs are to be used in connection with an assessment of client outcomes for achieving housing stability, reduced risks of homelessness and improved access to care.*

*For housing facility projects being developed, a target date for the completion of each development activity must be included and information on the continued use of these units for the eligible population based on their stewardship requirements (e.g. within the ten-year use periods for projects involving acquisition, new construction or substantial rehabilitation).*

*The Plan includes an explanation of how the funds will be allocated including a description of the geographic area in which assistance will be directed and the*

*rationale for these geographic allocations and priorities. Include the name of each project sponsor, the zip code for the primary area(s) of planned activities, amounts committed to that sponsor, and whether the sponsor is a faith-based and/or grassroots organization.*

*The Plan describes the role of the lead jurisdiction in the eligible metropolitan statistical area (EMSA), involving (a) consultation to develop a metropolitan-wide strategy for addressing the needs of persons with HIV/AIDS and their families living throughout the EMSA with the other jurisdictions within the EMSA; (b) the standards and procedures to be used to monitor HOPWA Program activities in order to ensure compliance by project sponsors of the requirements of the program.*

*The Plan includes the certifications relevant to the HOPWA Program.*

3-5 Year Strategic Plan HOPWA response:

The City does not receive HOPWA funds directly. Programs that operate in the City receive HOPWA allocations through the State of California. Doctors Medical Center Foundation acts as the fiscal agent for HOPWA funds allocated to Stanislaus County through the State. As the lead agency for HOPWA funding, the State is responsible for preparing plans for the distribution of HOPWA funds.

Doctors Medical Center Foundation currently contracts with the Stanislaus Community Assistance Project (SCAP) to provide housing services for persons with HIV/AIDS. Also, the Foundation contracts with the Community Assistance Project and with the Stanislaus County Health Services Agency to provide services such as case management, benefits counseling, client advocacy, home health, and mental health counseling.

### **Specific HOPWA Objectives**

*Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by the strategic plan.*

3-5 Year Specific HOPWA Objectives response:

The City does not receive HOPWA funds directly. Programs that operate in the City receive HOPWA allocations through the State of California. Doctors Medical Center Foundation acts as the fiscal agent for HOPWA funds allocated to Stanislaus County through the State. As the lead agency for HOPWA funding, the State is responsible for preparing plans for the distribution of HOPWA funds.

### **OTHER NARRATIVE**

*Include any Strategic Plan information that was not covered by a narrative in any other section.*

*See the attachments below for additional information and narrative.*

## **Attachment A: Public and Agency Comments**

### **Public Comments**

#### **Resident Survey Results**

The City distributed a resident questionnaire to solicit community opinions and concerns regarding community needs that can be addressed through federal funds covered under the Consolidated Plan. These categories of need were:

- Community Facilities
- Community Services
- Infrastructure Improvements
- Neighborhood Services
- Special Needs Services
- Economic Development
- Housing

These categories of need were further divided into specific topics, such as "senior centers" (from the Community Facilities category), "street/alley improvements" (from the Infrastructure category), and "youth activities" (from the Community Services category). For each topic, the respondent was asked to indicate unmet needs that warrant expenditure of public funds by checking a "priority" level from Lowest to Highest need, with one denoting the lowest need and four the highest need.

The questionnaire was distributed to community organizations and neighborhood associations who were notified of the Consolidated Plan update and to attendees at public meetings on the Consolidated Plan.

Questionnaires were completed by 101 respondents. Female heads-of-household were heavily weighted in the resident responses, so their concerns and opinions regarding priority community needs are likely to weigh heavily in the survey results. Approximately 31 percent of survey participants were female heads of households, 27 percent were individuals with disabilities, 16 percent were seniors, four percent were 18 years of age or less, and 22 percent identified themselves in various other categories.

The three levels of importance—high, medium, or low—were assigned based on the average score received for each topic. The higher the averages score the more important the topic as a priority need.

High priority needs were those with an average score of 2.6 or higher. There were 13 topics that received a score greater than 2.6, and they ranked as follows:

- Fire Stations and Equipment
- Health Care Facilities
- Health Services
- Youth Centers
- Anti-Crime Programs
- Youth Activities
- Child Care Centers
- Transportation Services

- Park & Recreational Facilities
- Community Centers
- Libraries
- Homeless Shelters/Services
- Child Care Services

Moderate priority needs were those with an average score of 2.0 to 2.59. There were 18 topics that received a score greater than 2.0 and less than 2.59, and they ranked as follows:

- Senior Centers
- Neglected/Abused Children Center and Services
- Street Lighting
- Homeownership Assistance
- Mental Health Services
- Substance Abuse Services
- HIV/AIDS Centers & Services
- Legal Services
- Street/Alley Improvement
- Centers/Services for Disabled
- Sidewalk Improvements
- Senior Activities
- Drainage Improvement
- Water/Sewer Improvement
- Domestic Violence Services
- Job Creation/Retention
- Employment Training
- Affordable Rental Housing
- Accessibility Improvements

Low priority needs were those with an average score of less than 2.0. There were 19 topics that received a score less than 2.0, and they ranked as follows:

- Fair Housing Services
- Rental Housing Rehabilitation
- Housing For Disabled
- Senior Housing
- Housing for Large Families
- Graffiti Removal
- Trash and Debris Removal
- Ownership Housing Rehabilitation
- Energy Efficient Improvements
- Code Enforcement
- Cleanup of Abandoned Lots and Buildings
- Start-Up Business Assistance
- Lead-Based Paint Test/Abatement
- Small Business Loans
- Commercial/Industrial Rehabilitation
- Parking Facilities
- Business Mentoring
- ADA Improvements
- Facade Improvements

## **Public Comments from Workshops and Hearings**

*To be completed after public review process is finished.*

### **Service Provider Comments**

The following comments were submitted by service providers:

#### **West Modesto/King Kennedy Neighborhood Collaborative**

##### Critical Issues

- Job training/employment
- Health care access
- Affordable housing
- Alcohol/drug abuse
- Education

##### Unmet Needs/Gaps

- Unskilled workforce
- Access health care for working poor/uninsured
- Lack of housing/rental assistance

##### Changes in Needs and Services in Past Five Years

West Modesto/Paradise Medical Office has addressed some of the challenges surrounding accessing health care, but there still remains the issue of coverage and education.

##### Other Comments

Resources to educate and inform the community regarding health care coverage and access is paramount in light of budget cuts to local CBO, as well as issues relating to job training/employment.

#### **Telecare/SHOP**

##### Most Common Barriers

- Affordability (housing)
- Evictions/poor credit
- Stigma/acceptance

##### Critical Issues

- Resources/staffing
- Program cut-backs
- Cost of housing versus benefit of unemployment/underemployment

##### Unmet Needs/Gaps

- Programs for severe mentally ill
- Safe and affordable housing

#### **Healthy Aging Association**

##### Critical Issues

- Health and well-being
- Transportation
- In-home assistance
- Depression
- Affordable housing

Unmet Needs/Gaps

- In-home strength training for frail elderly and adults

Changes in Needs and Services in Past Five Years

Tremendous growth in program participants. Program has doubled in the past the three years. I expect it to even more than double in the next five years as the population of Stanislaus County seniors increases.

Other Comments

The Stanislaus County Area Agency on Aging Four-Year Area Plan should be used to evaluate the needs of seniors in Stanislaus County.

**United Way of Stanislaus County**

Most Common Barriers

- Lack of available resources
- Income guidelines qualifications
- Transportation

Critical Issues

- Lack of funding
- Lack of resources
- Service collaboration
- Turf issues
- Consumer identified (needs) versus provider identified

Unmet Needs/Gaps

- Rental and utility assistance
- Deposit assistance
- Access to affordable housing
- Staff funding to support shelters and other assistance programs

Changes in Needs and Services in Past Five Years

- Lack of increased wages and employment opportunities to match housing costs/living costs.
- Increased number of agencies competing for reduce available dollars

Other Comments

Hopefully, increased collaboration efforts that result in "new" dollars supporting needs of the community.

**Disability Resource Agency for Independent Living (DRAIL)**

Critical Issues

- Accessible and affordable housing
- Low-income housing
- Rental and utility assistance
- Housing rehabilitation
- Homeless shelters

Unmet Needs/Gaps

- Lack of affordable, accessible housing for persons with disabilities who are unable to affordable housing and becoming homeless in Modesto
- Lack of accessible homeless shelters for persons with mobility, respiratory, hearing, , and vision disabilities

Changes in Needs and Services in Past Five Years

Availability of accessible, affordable housing will continue to deteriorate in the coming years

Other Comments

Lack of home modification assistance for person with disabilities. Homeless individuals with disabilities will continue to increase unless more accessible, affordable housing is made available.

**The Salvation Army (Modesto Citadel Corps)**

Critical Issues

- Funding
- Staffing

Unmet Needs/Gaps

- Permanent emergency shelter
- Transitional housing
- Senior outreach

**Parent Resource Center**

Critical Issues

- Increased need for parenting education
- Increased need for intensive case management
- Increased need for volunteer base
- Housing assistance
- Affordable job training
- Child care for working poor

Unmet Needs/Gaps

- Services for youth not in child welfare system
- Not enough affordable housing
- Safe, reliable child care not available and affordable for working families

Changes in Needs and Services in Past Five Years

Increased number of families needing above services in all income levels, especially the working poor

Other Comments

Non-profits in the City of Modesto and other community organizations have limited resources to deliver these services to the increased numbers. We thank the City of Modesto CDBG program for the generous funding we receive.

**Second Harvest Food Bank**

Critical Issues

- Affordable housing for low-income
- Nutritional supplemental groceries for low-income
- Public transportation for low-income, especially seniors
- Affordable health care and prescription medicine

Unmet Needs/Gaps

- Within our hunger relief programs, we have many schools within the city of Modesto and the rest of the County that have requested the expansion of our Food 4 Thought program. We are, however, unable to bring this program to all these schools without attaining additional funding.
- As part of our Food Assistance Program, we provide food to local non-profit charities throughout the County. There is a greater need for increased distribution and infrastructure in the unincorporated areas.

#### Changes in Needs and Services in Past Five Years

Since the end of the 2000 fiscal year, we have experienced an increase of 11.3% in the distribution outputs of our service programs.

#### **Modesto Love Center Ministries**

##### Critical Issues

- Resources to help individuals obtain proper documentation
- Food security
- Housing/shelter
- Medical care
- Advocacy to help seniors unlock the resources available to them

##### Unmet Needs/Gaps

- Help for individuals to secure documentation necessary to obtain services from the different agencies

#### **Modesto Police Department ("Weed and Seed" Program)**

##### Most Common Barriers

- Funding
- Low incomes
- Unemployment

##### Critical Issues

- Street lighting
- Infrastructure, sidewalks for County pockets
- Crime and gangs
- Speed bumps
- Blockage of alleys - need to decrease illegal dumping

##### Unmet Needs/Gaps

Although they are working these critical issues, the resident collaborative is looking into alternative youth activities at the same time. They are finding that residents are not aware of current City-sponsored youth services. Some suggestions are to advertise through community-based meetings and brochures translated into other languages.

#### **Interfaith Ministries**

##### Critical Issues

- Homeless families with drug issues
- Affordable housing
- Access to health care - no medical insurance
- Families needing food and clothing
- Jobs



Unmet Needs/Gaps

- The whole area of affordable, long-term housing
- Agencies providing emergency and transitional shelter working with their families to access housing and rental assistance are unable to get help for their clients from the agency with housing and rental assistance.
- Working poor unable to access health insurance

Changes in Needs and Services in Past Five Years

New players have come on the scene to provide services to the homeless and low-income persons. There has been more collaboration between agencies, particularly with the SCHSSC and the agencies who participate. However, more collaboration is always needed and territorial issues addressed.

Other Comments

Concern about the federal budget and cuts to the CDBG and ESG funding in the next few years.

**Stanislaus Literacy Center**

Critical Issues

- Workforce development
- Growing need for English language classes
- Health literacy

Unmet Needs/Gaps

- Funding to provide necessary services (teachers, books)
- Enough volunteers to meet needs
- Better facilities

Changes in Needs and Services in Past Five Years

- Funding for literacy is being cut at federal, state, and local levels
- Will need more local donations

**Project Sentinel**

Critical Issues

- Awareness of fair housing rights and responsibilities
- Rental practices which are discriminatory in their effect
- Cooperation of property owners and managers
- Providing timely and effective services
- Provide dispute resolution alternatives

Unmet Needs/Gaps

- Extensive community education
- Intensive investigation
- Agency effort for surveys and testing
- An additional full-time staff person

Changes in Needs and Services in Past Five Years

- Promoting fairness and equality in housing for all persons regardless of race
- Increased awareness of fair housing laws

Other Comments

Networking with other social service providers who are knowledgeable in recognizing a fair housing complaint.

### **Children's Crisis Center of Stanislaus County**

#### Critical Issues

- Child abuse prevention
- Drug abuse
- Domestic violence
- Homelessness

#### Unmet Needs/Gaps

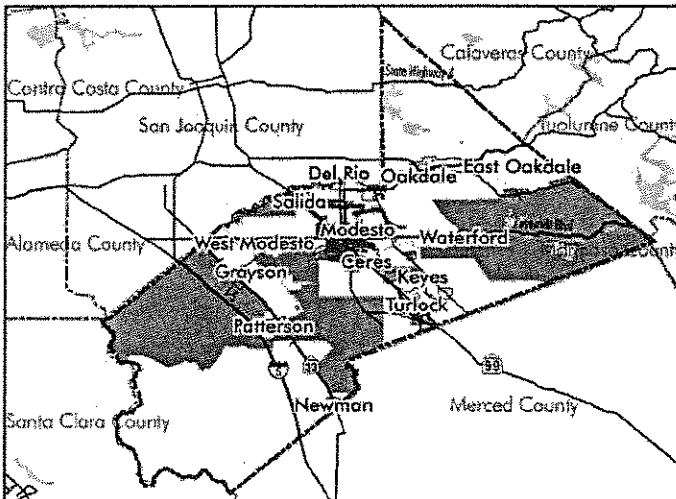
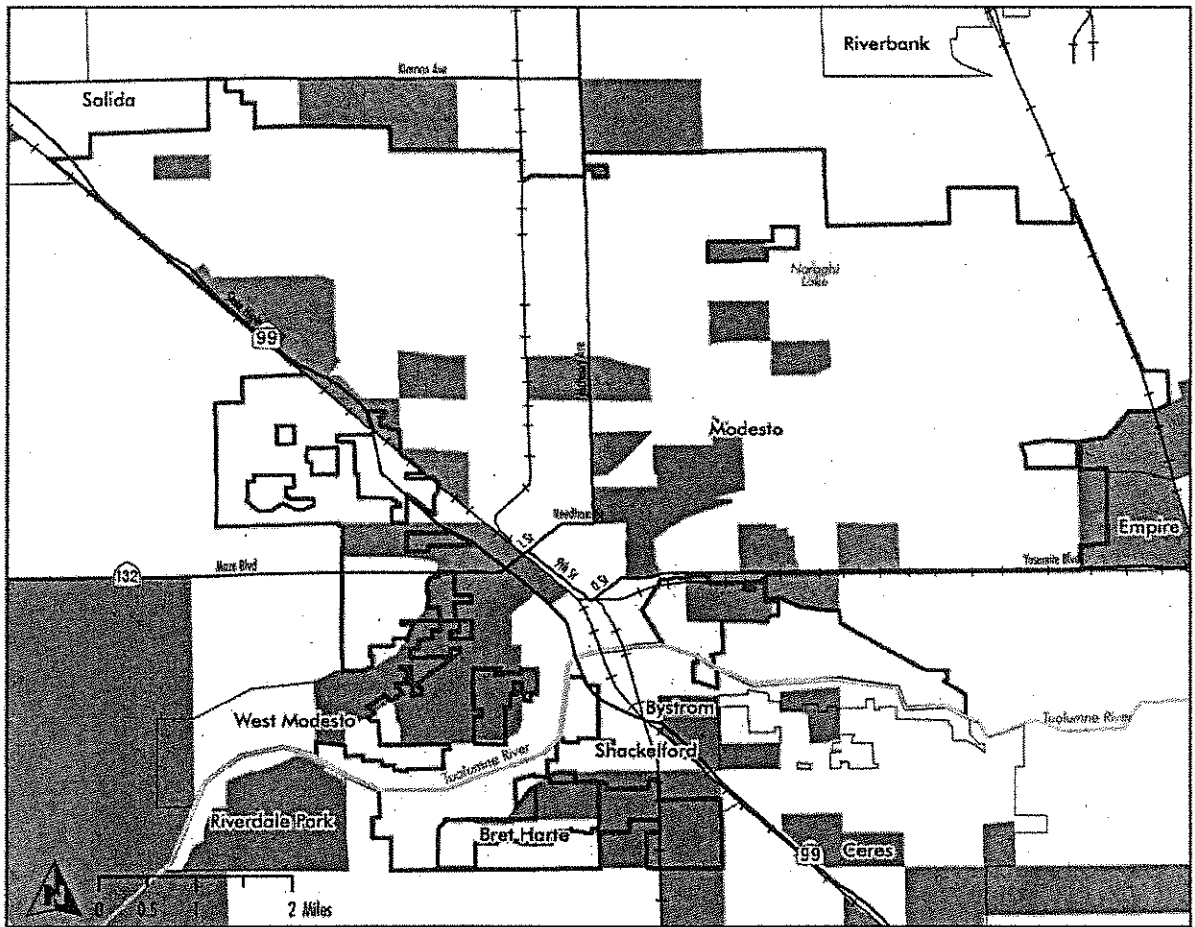
- Hours of public transportation
- Homeless shelters for families
- Services for homeless teens

### **Comments from City Agency Meeting (2-8-05)**

The following is a summary of comments received at a City agency consultation meeting conducted on February 5, 2005:

- The City presently uses its 15% of its CDBG funds for a variety of public services. The City may want to evaluate the consolidation of the public services funding into single program, such as one focused on homeless needs.
- The City has targeted specific neighborhoods in the past for housing rehabilitation. It has taken nearly 20 years, but the City is close to completing the rehabilitation of housing in these targeted neighborhoods. The City may want to re-consider whether it continues to target specific neighborhoods over the next five years.
- The City should consider funding infrastructure in support of long-term affordable housing. The cost of such infrastructure will need to be examined.
- Older industrial areas need sewer upgrades to expand, modernize, and create jobs. The City could consider CDBG funding for such improvements.

### Attachment B: Areas of Low/Moderate-Income and Minority Concentration



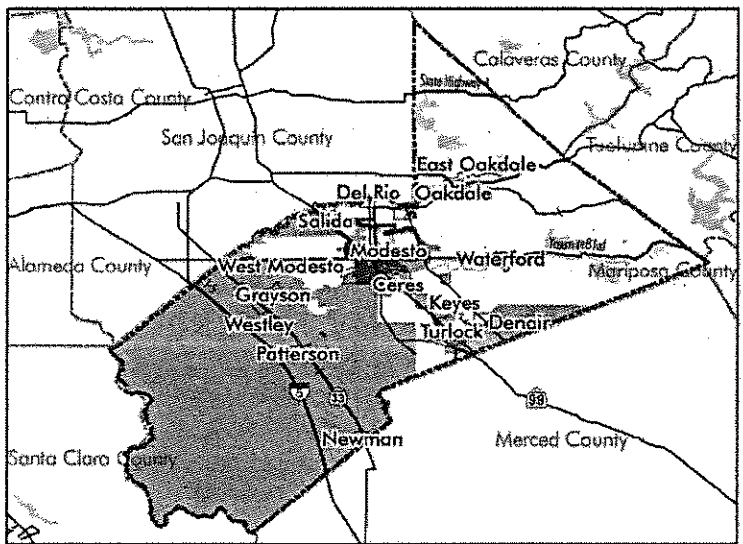
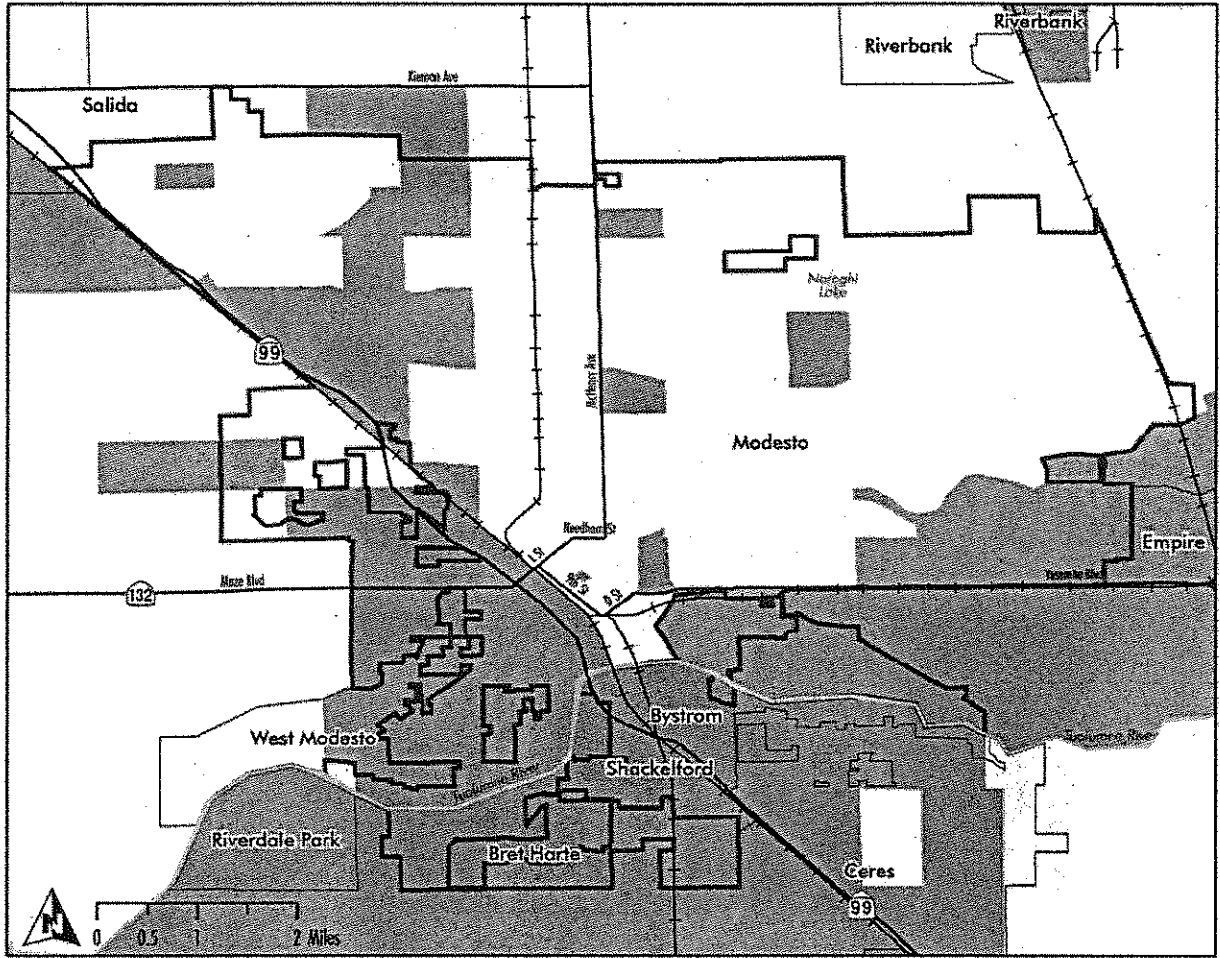
### Low and Moderate Income Population Concentration

City of Modesto

**Legend**

- Block Groups with Low or Moderate Income Population Concentration
- 42.9% and above for the Unincorporated County
- 51% for all communities
- Santa Clara County Boundary
- Jurisdictional Boundaries
- Freeways

SOURCE: Census 2000.



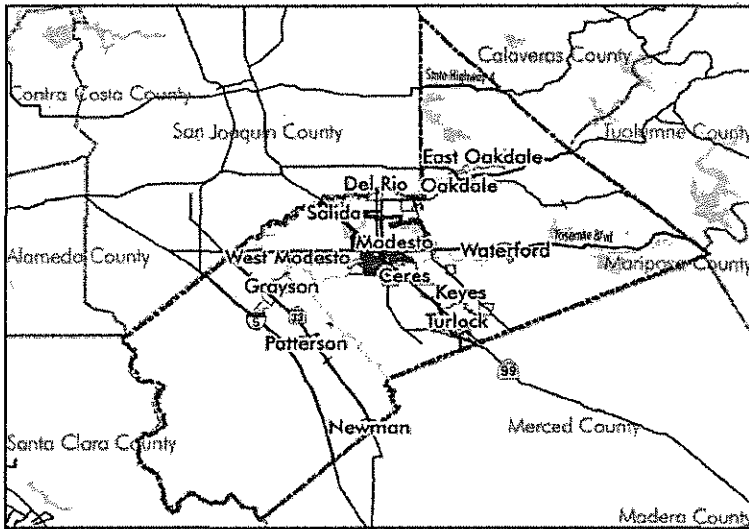
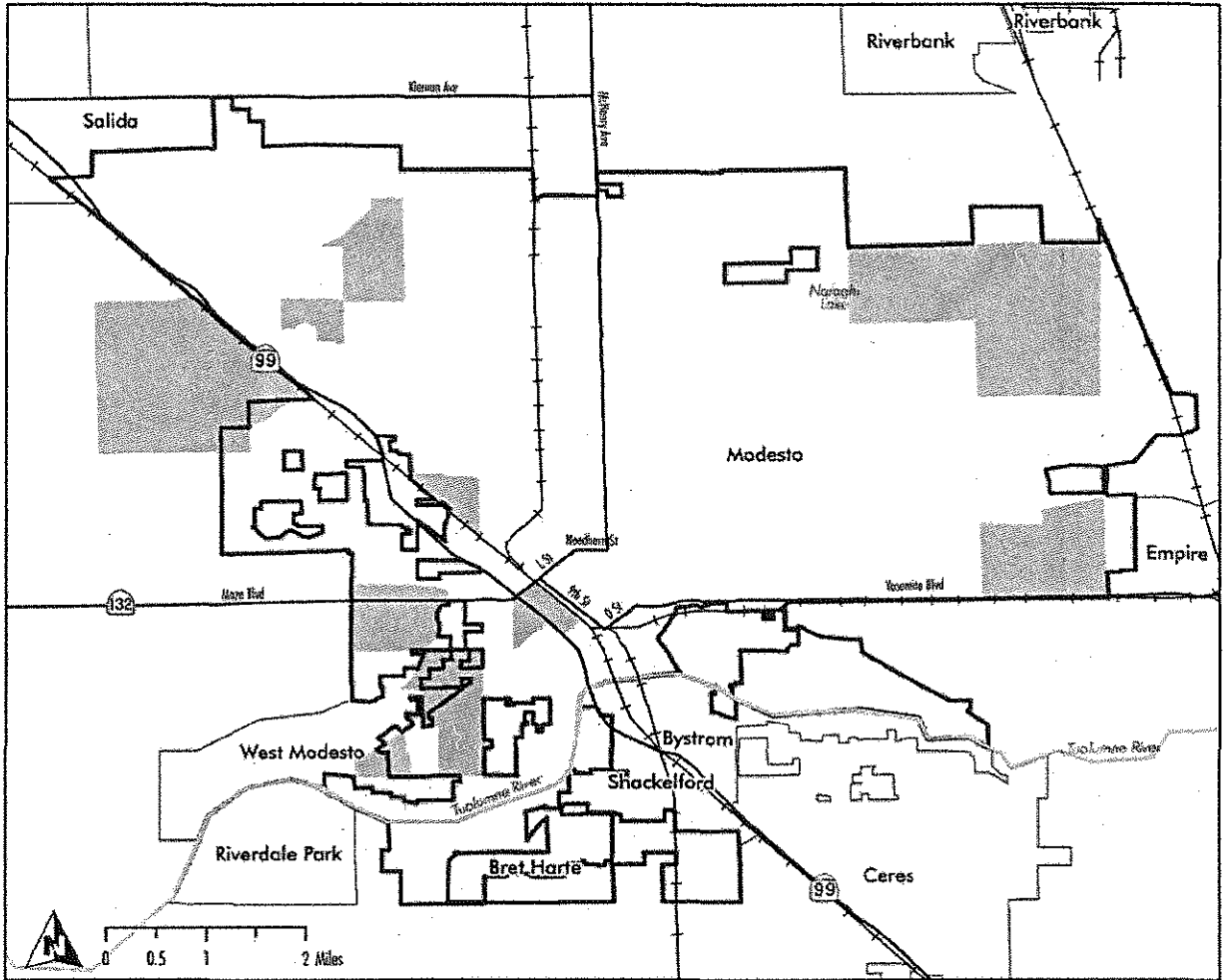
SOURCE: Census 2000.

### Minority Population Concentration

City of Modesto

#### Legend

- Minority Population Concentration
- 51% and above
- ⬭ Santa Clara County Boundary
- ⬭ Jurisdictional Boundaries
- ⬭ Freeways



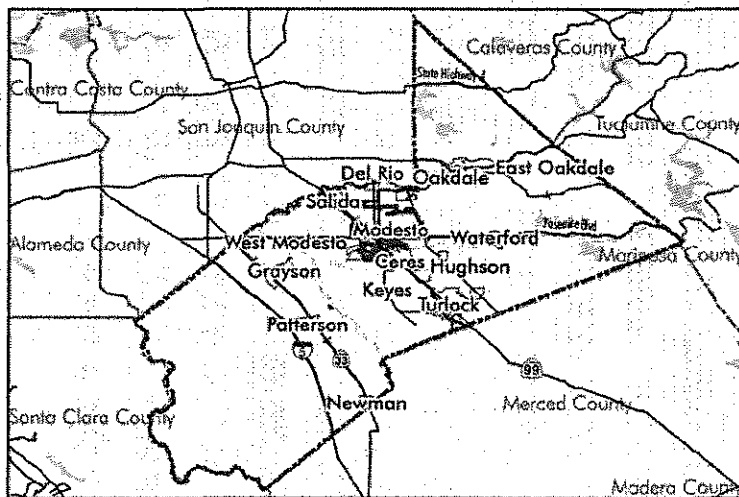
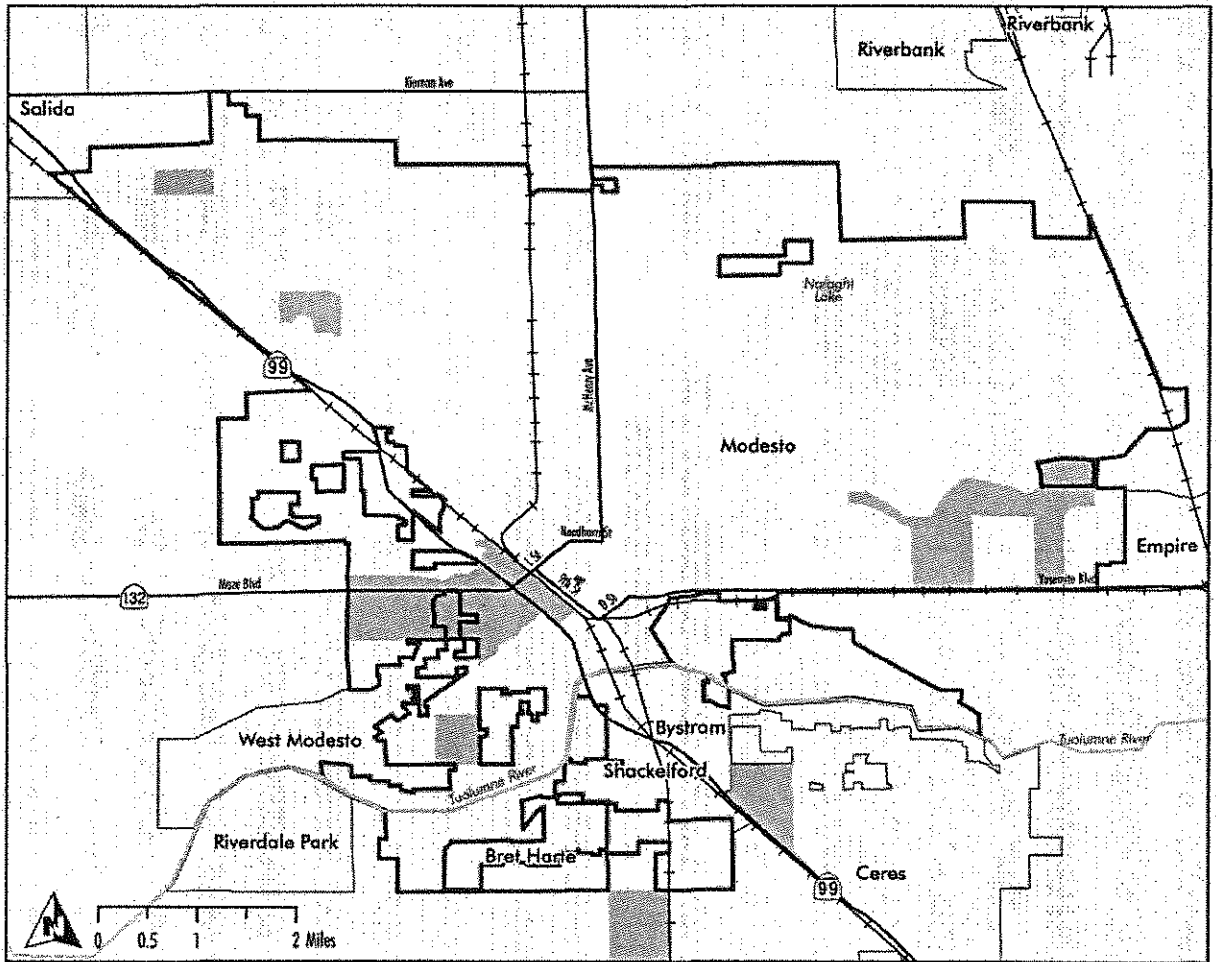
SOURCE: Census 2000.

### Asian/Pacific Islander Population Concentration

City of Modesto

#### Legend

- Black Groups with Asian/Pacific Islander Population Concentration
- ▨ Above the County Average (11.26%)
- ▩ Twice the County Average or More
- ▭ Santa Clara County Boundary
- ▭ Jurisdictional Boundaries
- ▬ Freeways



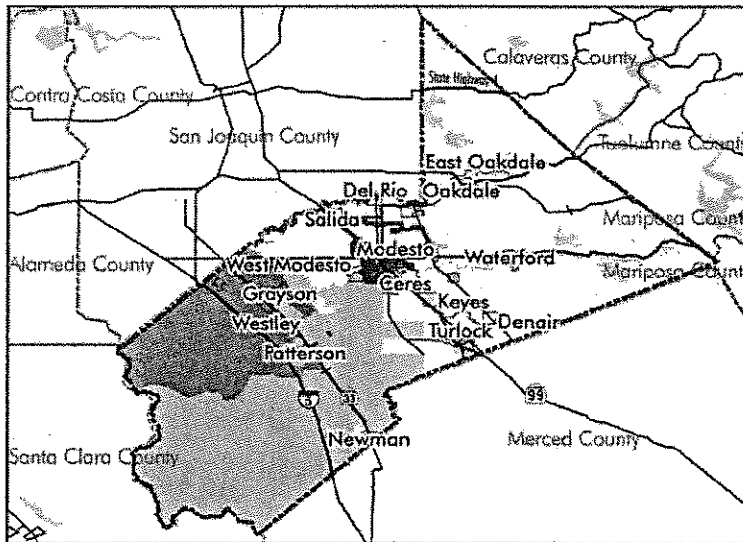
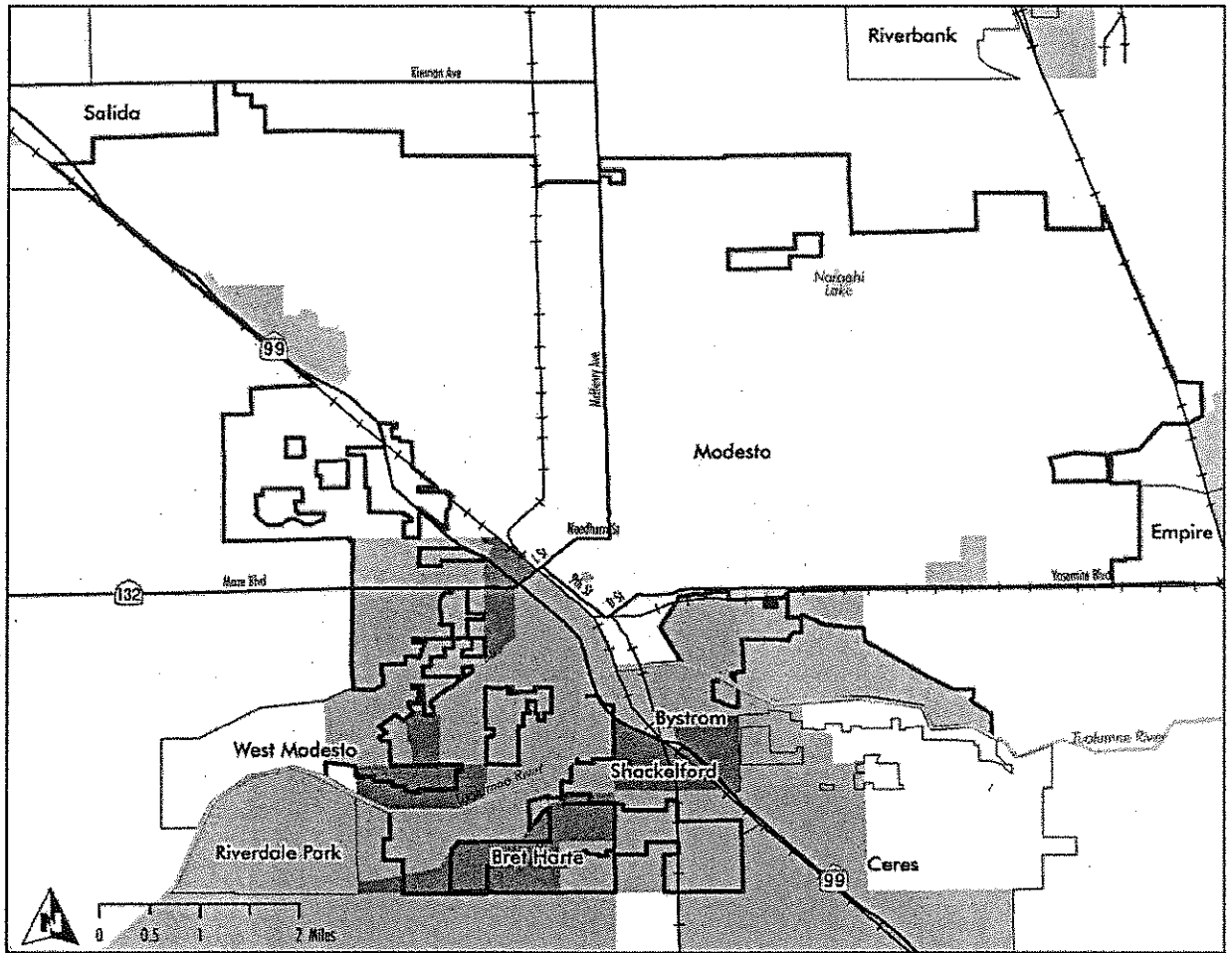
### Black Population Concentration

City of Modesto

#### Legend

- Block Groups with Black Population Concentration
- Above the County Average 6.68%
- Twice the County Average or More
- ⬡ Santa Clara County Boundary
- ⬢ Jurisdictional Boundaries
- ⬢ Freeways

SOURCE: Census 2000



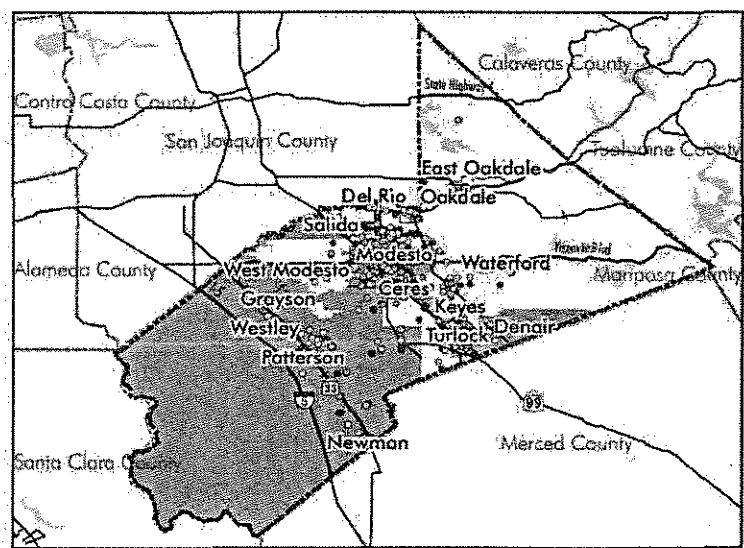
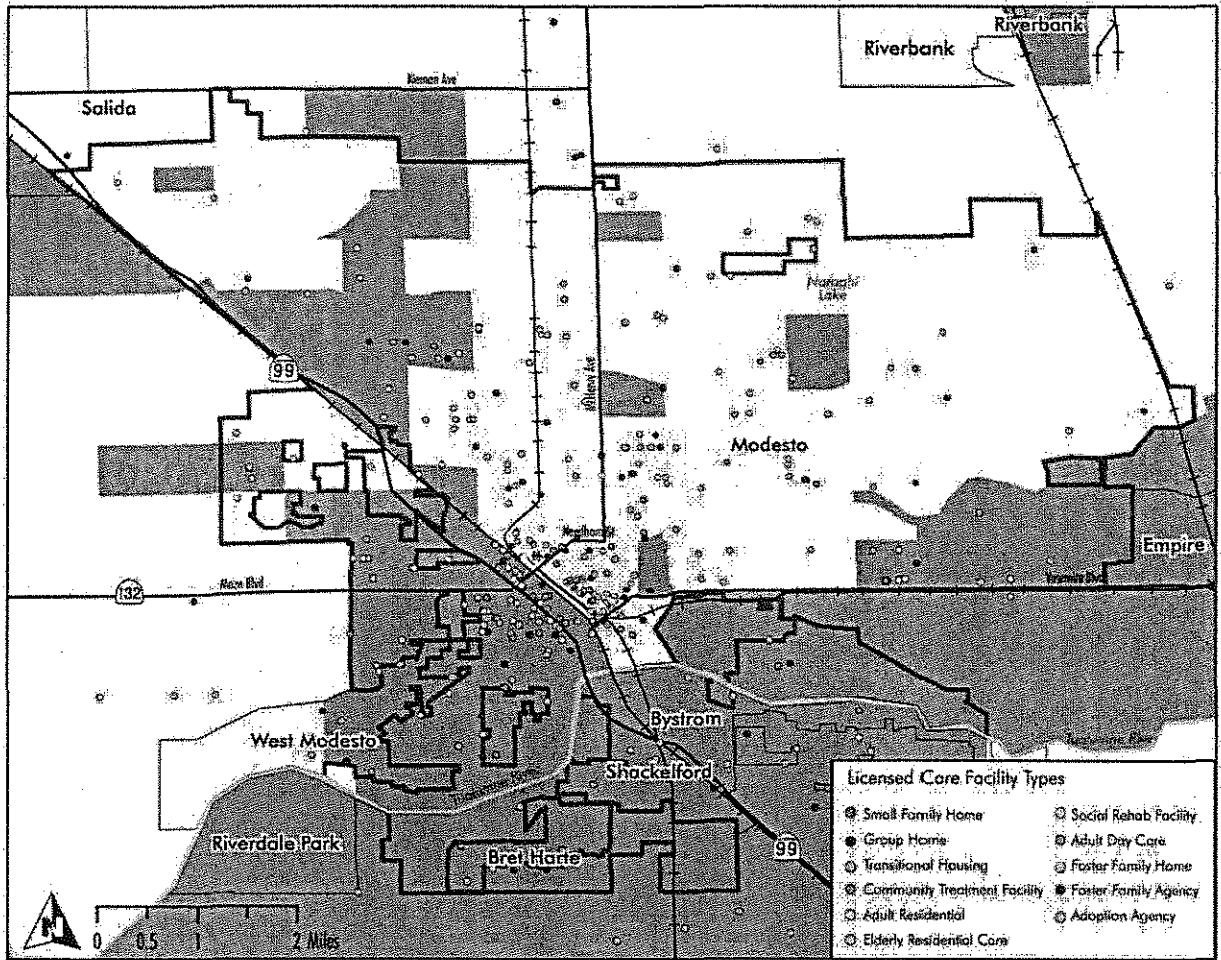
SOURCE: Census 2000.

## Hispanic Population Concentration

City of Modesto

### Legend

- Block Groups with Hispanic Population Concentration
- Above the County Average 32.38%
- Twice the County Average or More
- Santa Clara County Boundary
- Jurisdictional Boundaries
- Freeways



SOURCE: Census 2000.



## **Attachment C: Continuum Of Care Homeless Facilities And Services**

The following information has been excerpted from the *Stanislaus County 2004 Continuum of Care Application* to the U.S. Department of Housing and Urban Development.

### **The Continuum of Care Collaborative**

The lead entity for the Stanislaus County Continuum of Care (COC) development is the Stanislaus County Housing and Support Services Collaborative (SCHSSC). The SCHSSC was originally established in 2000 through the merging of several small collaboratives which focused on service and housing needs for various populations. In July of 2001, The Stanislaus County Board of Supervisors and the City of Modesto officially recognized *the Stanislaus County Housing and Support Services Collaborative* as the coordinating body for homeless programs and services in Stanislaus County. The mission of the SCHSSC is to advocate, coordinate, and optimize services for men, women and families who are homeless in Stanislaus County. The SCHSSC's activities include data collection, education, outreach, advocacy, development of the Homeless Management Information System (HMIS), and updating of the Continuum of Care Plan.

The SCHSSC is comprised of over 88 members and more than 50 agencies and organizations representing all cities within the County of Stanislaus. Representation includes members from non-profit organizations, homeless persons, formerly homeless persons, local government, disability service organizations, the public housing authority, police and fire service departments, faith-based and other community-based organizations, service agencies, community members, government agencies and housing developers. The SCHSSC has an Executive Committee and seven standing and/or temporary committees established in order to accomplish a specific goal. These committees are dedicated to working on 1) The 10-year plan to end chronic homelessness, 2) Needs for different sub-populations, 3) Technical Support for grantees and HMIS Development, 4) Day Facility Development and Homeless Outreach, 5) Continuum of Care updates, 6) Grant Review and Program Performance Evaluation. In addition, the City of Turlock has developed a committee to address specific needs within the City of Turlock which is reported to the SCHSSC for incorporation into the overall COC Plan.

Members of the collaborative meet monthly as a group and sub-committees meet either monthly or as needed to work towards the goal of improving the existing plan, discussion of new programs, development of greater collaboratives, and identifying gaps in the existing plan. The SCHSSC draws on the strength and experience of its membership as well as the experience and commitment of other key stakeholders. SCHSSC ensures fairness and equity in the development of its COC process and related funding applications by seeking the participation of diverse individuals and organizations that represent all communities and sub-populations within the County.

### **Planning Process**

The SCHSSC is the entity that coordinates the on-going development of the County-wide Continuum of Care. Building on the network of organizations and coalitions developed over the last four years, its efforts have enriched the ability of organizations to draw upon each other's expertise and resources to address homelessness, streamlined service delivery, and enhanced coordination between agencies and state and local providers. Overall, its efforts have resulted in a Continuum that is productive, vibrant, and sustainable over the long term. Many accomplishments and the progress made in increasing the level of housing and supportive service programs within the past year are identified in the COC planning meetings and topics illustrated further in this section of the narrative.

The SHSSC has appointed the seven sub-committees to be responsible for the day-to-day work of developing the Continuum. The SCHSSC is charged with meeting the challenges of developing a fair, open, participatory, and effective County-wide Continuum of Care in Stanislaus County. The vision of the SCHSSC is: "Housing is a basic human right. People who are homeless should have adequate, affordable housing and access to comprehensive services tailored to their individual needs." The SCHSSC holds regular monthly meetings for all members within the collaborative. The subcommittee groups meet either monthly or as needed depending upon the project to develop the Continuum of Care and its associated application. Members of the Sub Committees undertake tasks including:

- 1) Organizing the planning process
- 2) Collecting needs data and inventorying system capacity
- 3) Determining and prioritizing gaps and needs
- 4) Developing policies and setting priorities to ensure service effectiveness
- 5) Reviewing grant applications and providing technical support to grantees
- 6) Identifying funding resources available for development of housing and supportive services
- 7) Developing strategies to strengthen the existing continuum of care plan

#### Continuum of Care - Service Activity Chart

The Stanislaus County Continuum of Care has all the essential components in place to prevent, identify, assess, and support the individuals and families who are homeless in its communities, although the availability of services varies by area. These fundamental service components include: Prevention, Outreach, and Supportive Services. The following components are described in the following table, including the services in place, how individuals and families access the services, and services that are planned.

<b>Fundamental Components in CoC System (Service Activity)</b>
<p><b>Component: Prevention</b> - Prevention services in place fall into three main categories: emergency assistance; education, information, and counseling; and advocacy and awareness raising.</p> <p><b>EMERGENCY ASSISTANCE</b></p> <p>Several agencies offer emergency financial assistance to prevent homelessness by providing funds for rent, security deposits, utilities, and medical and other basic needs.</p> <p><b>Service in Place: Emergency Rental Assistance to Avoid Eviction</b></p> <p><u>Service Providers:</u></p> <ul style="list-style-type: none"><li>• Community Housing and Shelter Services – low-income families and individuals.</li><li>• Stanislaus County Behavioral Health and Recovery Services - persons with mental illness/substance abuse</li><li>• The Stanislaus County Community Services Agency – current TANF recipients</li><li>• Central Valley Opportunity Center - families</li><li>• Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS</li><li>• Telecare SHOP – Persons with mental illness/substance abuse</li></ul> <p><b>Service in Place: Utility Assistance</b></p> <p><u>Service Providers:</u></p> <ul style="list-style-type: none"><li>• Modesto Irrigation District/Turlock Irrigation District – offers lower rates to low-income households</li><li>• Central Valley Opportunity Center</li></ul>

- Project Reach
- Salvation Army – Seniors and families with children
- Department of Social Services – Co-Signing Program
- Stanislaus County Behavioral Health & Recovery Services – persons with mental illness
- Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS
- Telecare SHOP – Persons with mental illness/substance abuse

**Service in Place: Security Deposit Assistance**

**Service Providers:**

- Community Housing & Shelter Services
- Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS
- Stanislaus County Behavioral Health & Recovery Services – persons with mental illness/substance abuse
- Housing Authority of the County of Stanislaus – Shelter plus Care, loan program for TANF recipients
- Community Services Agency – families with children/TANF
- Telecare SHOP – Persons with mental illness/substance abuse

**Other emergency assistance activities are as follows:**

Interfaith Ministries, The Salvation Army, Calvary Temple Care Center, The Love Center, and United Samaritans provide emergency assistance for food and clothing. Seven communities within Stanislaus County provide food to their local residents through community food pantries. Twenty local churches also operate food pantries or similar programs that provide emergency food, clothing and other financial assistance to families in need.

**EDUCATION, INFORMATION, AND COUNSELING**

Several agencies provide individuals and families with education and information that helps prevent homelessness in the form of information hotlines, tenant education, and counseling and case management. Agencies providing tenant advocacy coordinate with the Sheriff's eviction unit or property owners to identify individuals and families facing eviction, provide outreach services and work with the family or individual to resolve or prevent eviction.

**Service in Place: Information & Referral Services**

**Service Providers**

- United Way Central Valley Information & Referral
- American GI Forum - Veterans
- Behavioral Health and Recovery Services, SHOP, SISA – persons with mental illness/substance abuse
- Community Housing and Shelter Services
- Haven Women's Center– victims of domestic violence
- Stanislaus Community Assistance Project – persons with HIV/AIDS
- Disability Resources Agency for Independent Living – persons with disabilities
- Salvation Army
- Coalition on Homelessness, Stanislaus County
- Children's Crisis Center
- Catholic Charities/Stanislaus Elder Abuse Prevention Alliance
- Habitat for Humanity, Stanislaus
- United Samaritans Foundation

**Service in Place: Housing Counseling Services**

**Service Providers:**

- Community Housing & Shelter Services
- Housing Authority of the County of Stanislaus – Section 8 Voucher Holders
- Disability Resources Agency for Independent Living – persons with disabilities
- Behavioral Health and Recovery Services, SHOP, SISA – persons with mental illness/substance abuse
- Community Services Agency – families on TANF
- Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS

- Habitat for Humanity, Stanislaus

**Service in Place: Tenant Advocacy**

**Service Providers:**

- Housing Authority of the County of Stanislaus – housing program participants
- Community Housing and Shelter Services
- Community Services Agency
- Disability Resources Agency for Independent Living – persons with disabilities
- California Rural Legal Assistance (CRLA)
- Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS

**ADVOCACY AND AWARENESS-RAISING**

Agencies that participate in the SHSSC work hard to prevent homelessness through advocacy and awareness. Members of the SHSSC regularly make presentations to community organizations, schools, churches, clinics, hospitals, law enforcement and social service agencies to increase awareness about ways to prevent homelessness and the status of the region's homeless population. The SHSSC promotes collaboration among the county service agencies in order to improve service delivery and prevent homelessness among low-income individuals and families. For example, one agency, Coalition on Homelessness, Stanislaus County publishes a newsletter, The Curbside News, which serves as an excellent tool to share information on homeless issues in Stanislaus County.

**Service in Place: Fair Housing/Discrimination Investigations**

**Service Providers**

California Rural Legal Assistance (CRLA)

- Housing Authority of the County of Stanislaus
- Project Sentinel

**Service in Place: Legal Aid Advocacy**

**Service Providers:**

- Disability Resources Agency for Independent Living Housing Authority of the County of Stanislaus
- California Rural Legal Assistance
- Haven Women's Shelter – victims of domestic violence
- Project Sentinel – housing discrimination

**Service in Place: Legal Aid Services**

**Service Providers:**

- California Rural Legal Assistance

**Services planned:**

- The County of Stanislaus plans to award thirty percent of Emergency Shelter Grant funds to agencies that provide prevention activities targeted to low-income families who are at risk of becoming homeless. The cities of Modesto and Turlock have also designated a portion of ESG funding to homelessness prevention.
- Children's Crisis Center plans to provide assistance to women and children who are in jeopardy of becoming homeless due to domestic violence.
- Interfaith Ministries plans to open an additional winter shelter to house families who are homeless or at risk of becoming homeless.
- Community Housing and Shelter Services is planning to secure funding to continue to provide homelessness prevention through financial assistance and education.
- Project Sentinel plans to increase awareness and advocacy by expanding their landlord/tenant program.

**How persons access/receive assistance:**

Prevention services are accessed mainly on a walk-in basis to the local Community Services Agency, police station or other service provider..

Service providers then make referrals and directly assist the client as needed. Information referral lines are publicized in community gathering areas and public places. Several agencies provide flyers that describe services available as well as contact and eligibility information.

**Component: Outreach**

**Outreach in place:**

**Outreach to homeless persons living on the streets**

Service agencies in Stanislaus County regularly provide outreach to people who are living on the streets by visiting places where the unsheltered homeless congregate and canvassing outdoor locations. Many of the various outreach service providers work to meet the immediate needs of persons who are homeless (food, clothing, medical care, etc.) and make referrals to resources such as mental health or substance abuse treatment and other social services as needed.

**Outreach in Place: Street canvassing and outreach to the homeless living on the streets and in homeless camps**

**Service Providers/Target Populations:**

- Coalition on Homelessness, Stanislaus County (COHSC) – general homeless population, youth and adults
- Telecare SHOP – chronically homeless population/substance abuse
- Turning Point/SISA – mentally ill homeless
- Modesto Police Department Restorative Police Program – homeless persons with SMI/SA, victims of domestic violence
- United Samaritans – general homeless population
- Victory Outreach Ministries – adults with SA
- Families First Visions – chronically homeless, disabled persons, youth, families, young adults with MI

**Outreach in Place: Outreach via mobile units**

**Service Providers:**

- Golden Valley Health Care – mobile clinic
- Modesto Police Department –Restorative Police Program
- Victory Outreach Ministries
- Nineveh Outreach/Calvary Temple
- Daily Bread Food Ministry/United Samaritans
- Coalition on Homelessness, Stanislaus County
- Various Church Organizations
- Stanislaus Community Assistance Project (SCAP)

**Outreach in Place: Newsletter for the homeless population**

**Service Provider:**

- Coalition on Homelessness, Stanislaus County – The COHSC develops a monthly newsletter that includes information on services available, current housing, local news and stories written by homeless persons. The newsletter is designed to assist the chronically homeless and is distributed at location where the unsheltered homeless gather including shelters, day center and lunch programs. The newsletter is also provided to the general public and service-providing agencies to enlighten the public on issues homeless persons face on a daily basis.

**Outreach in Place: Day centers for the homeless**

**Service Provider:**

- Sunshine Place, a day center for the homeless mentally ill, is located in the center of the city of Modesto and can be accessed via public transportation. Persons may visit the site during daytime hours and receive services and referrals.
- The Salvation Army operates a day center that provides clothing, socks, phone use, storage, bus passes and lunch. Day center visitors receive referrals and help with paperwork for various services. HIV, and TB testing is provided in cooperation with other area agencies.
- United Samaritans Foundations, Turlock and Hughson centers offer laundry facilities, message/phone service, mail delivery and referral services to homeless persons.

**Outreach to other homeless persons**

Members of the SHSSC provide outreach to homeless in shelters, jail, hospitals or other temporary housing. Outreach activities involve looking for, identifying, meeting with, engaging, and assisting individuals who are homeless in accessing shelter, food, and other services that meet basic human needs. In addition to identifying and engaging persons who are homeless, outreach staff and programs link persons who are homeless to housing and services, thus beginning the movement along the continuum toward the end goal of quality, stable housing.

**Outreach in Place: Outreach to homeless through service agencies**

**Service Providers:**

- The Salvation Army – day center, winter shelter, food
- Community Housing and Shelter Services – emergency shelter
- Stanislaus County Behavioral Health and Recovery Services - persons with mental illness/substance abuse
- Stanislaus Community Assistance Project (SCAP) – persons with HIV/AIDS
- Telecare SHOP – homeless mentally ill/substance abuse
- Central Valley Homeless Veterans
- Interfaith Ministries – shelter, food
- United Samaritans – shelter, food
- Modesto Gospel Mission – emergency shelter, food, recovery program
- Families First/Visions – homeless youth
- Hutton House – homeless youth

**Outreach in Place: Outreach to persons that are homeless due to domestic violence**

**Service Providers:**

- Haven Women's Center
- Community Housing & Shelter Services
- Children's Crisis Center

**Outreach in Place: Outreach to other homeless persons**

**Service Provider/Target Population:**

- Central Valley Homeless Veterans –veterans in hospitals
- Friends Outside –persons in jail
- Modesto Restorative Police Program –persons in jail
- Victory Outreach –persons in jail
- Telecare SHOP –persons in psychiatric hospitals and in jail facilities
- First Baptist Church – provides outreach on site through their Monday evening meal program
- Coalition on Homeless, Stanislaus County – provided civil rights education to homeless and service providers at Housing California
- Nineveh Outreach/Calvary Temple – outreach at local parks

**Outreach in Place: One-stop outreach centers**

**Service Providers:**

- Four one-stop outreach centers in Stanislaus County provide information and referrals, vocational training, resume building, referral services for the homeless and assistance to families entering the job market who need vocational assistance. Participating agencies include Community Services Agency, Department of Employment and Training, Stanislaus County Behavioral Health & Recovery Services, Housing Authority, Modesto Junior College, Central Valley Opportunity Center, Modesto City Schools, Dept. of Rehabilitation, Stanislaus Economic Development and Workforce Alliance and DRAIL.

**Outreach planned:**

- (1) **Persons living on the streets**

- Urban Ministry's Vine House plans to provide outreach health fairs to provide information regarding services to persons that are homeless or at-risk of becoming homeless.

**(2) Other homeless persons**

- Interfaith Ministries plans outreach activities to inform homeless families about the Santa Fe winter shelter scheduled to open in December 2004. Planned outreach includes providing flyers and requesting referrals from faith-based and other social services agencies.
- United Samaritans Foundation plans to add a roving case manager position on the Daily Bread trucks to provide homeless and impoverished persons with assessments and referrals to services.

**Component: Supportive Services**

**Services in place:** An array of supportive services is provided throughout Stanislaus County to assist individuals and families who are homeless. Below are descriptions of the case management, life skills, alcohol and drug abuse treatment, mental health treatment, education, employment assistance, childcare, transportation, and other services available to individuals and families who are homeless in Stanislaus County.

**Services in Place: Case Management**

**Target Populations/Case Management Providers:**

- Persons with HIV/AIDS – Stanislaus Community Assistance Project, Stanislaus County Health Services Agency
- Persons with Mental Illness – Stanislaus County Behavioral Health & Recovery Services (SCBHRS), Turning Point/SISA, Telecare SHOP
- Developmentally Disabled Persons – Disability Resources Agency for Independent Living, Valley Mountain Regional Center
- Victims of Domestic Violence – Haven Women's Shelter, Community Housing & Shelter Services, Children's Crisis Center
- Youth – Families First-Visions, Stanislaus County Behavioral Health & Recovery Services, Children's Crisis Center, Center for Human Services, Community Services Agency
- Elderly – SBHRS Older Adult Services Team, Area Agency on Aging
- Persons with Substance Abuse – SBHRS, Nirvana, Stanislaus Recovery Center, Victory Outreach, Lazarus House

**Services in Place: Life Skills Service Providers**

**Service Providers:**

- Agape House
- Center for Human Services
- Community Housing & Shelter Services
- Community Services Agency
- Disability Resources Agency for Independent Living
- Families First-Visions
- Lazarus House
- Mighty Women of Modesto
- Modesto Junior College Workforce Training
- Stanislaus County Behavioral Health & Recovery Services
- Telecare SHOP
- Turning Point/SISA
- Valley Mountain Regional Center
- Victory Outreach

**Services in Place: Alcohol and Drug Abuse Treatment**

**Service Providers:**

- SCBHRS Substance Abuse Division
- NIRVANA
- Latino D&A (Casa de Vida)
- Laura's House
- Samaritan House

- Health Services Agency
- Al Anon
- First Step
- Genesis – Heroin Treatment Services
- New Hope Recovery House
- Teamsters Alcohol Rehab
- Lazarus House
- Victory Outreach

**Services in Place: Mental Health Treatment**

*Service Providers:*

- Stanislaus County Behavioral Health & Recovery Services
- Stanislaus County Health Services Agency
- Telecare SHOP
- Modesto Junior College
- CSUS – Student Services

**Services in Place: AIDS-related Treatment**

*Service Providers:*

- Stanislaus Community Assistance Project (SCAP)
- Stanislaus County Health Services Agency

**Services in Place: Education**

*Service Providers:*

- Stanislaus County Department of Employment & Training
- Modesto Junior College
- Stanislaus Career Network
- Coalition on Homelessness, Stanislaus County
- Modesto Gospel Mission
- Central Valley Opportunity Center
- Howard Training Center – Developmentally Disabled
- Stanislaus County Community Services Agency
- United Cerebral Palsy
- Housing Authority of the County of Stanislaus
- Bethesda Ministries
- Elliot Alternative Education
- Turlock Adult School
- Ceres Adult School
- Turning Point Community Programs
- CSU Stanislaus
- Habitat for Humanity, Stanislaus

**Services in Place: Employment Assistance**

*Service Providers:*

- Stanislaus Career Network
- Employment Development Department
- Friends Outside
- Telecare SHOP
- Howard Training Center
- Community Services Agency – Stan Works



- United Cerebral Palsy
- Central Valley Opportunity Center
- Stanislaus County Department of Employment & Training
- Modesto Junior College
- Turning Point

**Services in Place: Child Care**

*Service Providers:*

- Community Services Agency
- Salvation Army
- Stanislaus County Recovery Services
- YMCA
- Red Shield Center
- Head Start Programs
- Healthy Start Programs
- Stanislaus County Child Care Referral
- Modesto Junior College
- Children's Crisis Center

**Services in Place: Transportation**

*Service Providers:*

- Project REACH
- Older Adult Services Team
- Community Housing & Shelter Services
- SCBHRS
- United Cerebral Palsy
- NIRVANA
- Stanislaus Community Assistance Project
- Central Valley Homeless Veterans
- Salvation Army
- United Samaritans

**Services in Place: Other**

**Type of Service/Service Providers:**

- Pre-parole Preparation & Vocational Training – Friends Outside, Stanislaus County Sheriff's Department- TRACS Program
- Hot Meals - Salvation Army, United Samaritans, Nineveh Outreach, Modesto Gospel Mission, Interfaith Ministries, Red Cross, Riverbank Christian Food Sharing, First Baptist Church, The Vine House, Bethesda Ministries
- Clothing – Interfaith Ministries, Red Cross, Salvation Army, City Care/Calvary Temple, Agape-Ceres, Bethesda Ministries, Coalition on Homelessness, Soroptomists
- Groceries – Nineveh Outreach, City Care/Calvary Temple, Westside Food Pantry, Riverbank Christian Food Sharing, First Southern Baptist Food Ministry, Salvation Army
- Health Care Services – Golden Valley Health Care, Modesto Gospel Mission, Health Services Agency

**Services planned:**

- Children's Crisis Center plans to increase their services by opening an additional site in Turlock. CCC offers assistance to families through respite childcare, guidance/advocacy to victims of domestic violence, family nurturing classes, overnight care and emergency shelter for children.
- Victory Outreach, a faith based drug and alcohol treatment program, plans to increase their program size by adding fifteen beds to their facility. The agency currently has the capacity to serve fourteen men and four women in a transitional housing program.
- Lazarus House Ministries, a faith based recovery home for women, plans to add a facility to serve men in the Turlock area.

**How homeless persons access/receive assistance:**

Persons who are homeless access supportive services either through their case managers or by directly contacting individual service providers. Information about service providers is accessed through pamphlets and service directories, which are available at shelters, social services offices, and other service providers. Through the Stanislaus County Housing & Supportive Services Collaborative, strong networks of relationships have developed between various agencies in each region. Case managers as well as other professionals working with persons who are homeless provide referral services for the above services. Providers work collaboratively to coordinate referrals and case management between agencies to ensure that people who are homeless have access to the services for which they are eligible.

### Continuum of Care Housing Activity Chart

Fundamental Components in CoC System - Housing Inventory Chart											
<b>EMERGENCY SHELTER</b>											
Provider Name	Facility Name	HMIS	Geo Code	Target Population		2004 Year-Round Units/Beds			2004 All Beds		
				A	B	Family Units	Family Beds	Individual Beds	Year-Round	Seasonal	Overflow/Voucher
<b>Current Inventory</b>											
STANCO/Turning Point	Garden Gate Respite	P-8/05	062292					5	5		
The Gospel Mission	Gospel Mission	N	062292	M			90	150	240		
Children's Crisis Center	Cricket House	P-8/05	062292	YMF				5	5		
Children's Crisis Center	Oakdale	P-8/05	069099	YMF				6	6		
Children's Crisis Center	Fiori Avenue	P-8/05	062292	YMF				6	6		
Center for Human Services	Hutton House	P-8/05	062292	YMF				8	8		
Haven Women's Center	Haven Shelter	N	062292	M	DV		25		25		
CHSS	Motel Vouchers	P-8/05	062292	M			92		92		
NIRVANA	131 Kelly	P-8/05	062292	SF				3	3		
Salvation Army	Winter Shelter	P-8/05	062292	M						80	
United Samaritan's	We Care Shelter	P-8/05	063798	M						35	
<b>SUBTOTAL</b>							<b>207</b>	<b>183</b>	<b>390</b>	<b>115</b>	
<b>Under Development</b>											
Interfaith Ministries	Santa Fe	P-8/05		M		20	100			100	
<b>SUBTOTAL</b>						<b>20</b>	<b>100</b>			<b>100</b>	
<b>TRANSITIONAL HOUSING</b>											
Provider Name	Facility Name	HMIS	Geo Code	Target Population		2004 Year-Round Units/Beds			2004 All Beds		
				A	B	Family Units	Family Beds	Individual Beds	Total Beds	Seasonal	Overflow/Voucher
<b>Current Inventory</b>											
STANCO	Garden Gate	P-8/05	062292	SMF				20	20		
STANCO	Maze	P-8/05	062292	SMF				2	2		
STANCO	Locust	P-8/05	062292	SMF				3	3		
STANCO	SunGarden	P-8/05	062292	M		1	5		5		

<b>TRANSITIONAL HOUSING</b>											
<b>Current Inventory</b>											
Provider Name	Facility Name	HMIS	Geo Code	Target Population		2004 Year-Round Units/Beds			2004 All Beds		
				A	B	Family Units	Family Beds	Individual Beds	Total Beds	Seasonal	Overflow/Voucher
STANCO	California	P-8/05	062292	SMF				16	16		
CHSS	Laura's House	P-8/05	062292	M		1	16		16		
Center for Human Services	Pathways	P-8/05	062292	SMF				16	16		
Haven Women's Center	The Women's Haven	N	062292	M		1	8		8		
NIRVANA	1116 Alice Street	P-8/05	062292	SF				6	6		
NIRVANA	1116 1/2 Alice Street	P-8/05	062292	SF				10	10		
NIRVANA	1028 Reno	P-8/05	062292	SM				30	30		
NIRVANA	1040 Reno	P-8/05	062292	SM				6	6		
NIRVANA	131 Kelly	P-8/05	062292	SF				3	3		
NIRVANA	120 Nellie	P-8/05	062292	SM				12	12		
NIRVANA	2524 Leslie Lane	P-8/05	069099	SMF				8	8		
NIRVANA	303 Park	P-8/05	062292	SM				6	6		
Interfaith Ministries	Redwood Family Center	P-8/05	062292	M		2	74		74		
Bethesda Ministries	Bethesda Home	N	062292	SMF				35	35		
New Hope	New Hope Home	N	062292	SMF				40	40		
Empowerment Sober Living	Empowerment Home	N	062292	SMF				36	36		
Lazarus Ministries	Lazarus House	N	063798	SMF				6	6		
Victory Outreach	Men's Home	N	062292	SM				14	14		
Victory Outreach	Women's Home	N	062292	SF				4	4		
<b>SUBTOTAL</b>						<b>5</b>	<b>103</b>	<b>273</b>	<b>376</b>		
<b>Under Development</b>											
<b>SUBTOTAL</b>											

<b>PERMANENT SUPPORTIVE HOUSING</b>											
Provider Name	Facility Name	HMIS	Geo Code	Target Population		2004 Year-Round Units/Beds			2004 All Beds		
				A	B	Family Units	Family Beds	Individual Beds	Total Beds	Seasonal	Overflow/Voucher
<b>Current Inventory</b>											
STANCO	California	P-8/05	062292	SMF				18	18		
STANCO	Maze Blvd	P-8/05	062292	SMF				4	4		
Housing Authority	Shelter plus Care 1	P-8/05	069099	SMF				6	6		
Housing Authority	Shelter plus Care 2	P-8/05	069099	SMF				11	11		
Housing Authority	Shelter plus Care 3	P-8/05	069099	M		7	25	8	32		
	Shelter plus Care 4	P-8/05	0069099	M		13	49	10	59		
				<b>SUBTOTAL</b>		<b>20</b>	<b>74</b>	<b>57</b>	<b>130</b>		
<b>Under Development</b>											
Habitat for Humanity	A Hand Up	P-8/05	069099	M		7	35		35		
Housing Authority	25 HCV Vouchers	P-8/05	062292	M				25	25		
Housing Authority	Miller Pointe	P-8/05	062292	SMF				15	15		
SCAP	Halo House	P-8/05	062292	M		4	14	4	18		
				<b>SUBTOTAL</b>		<b>11</b>	<b>49</b>	<b>44</b>	<b>93</b>		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-289**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF  
NINETEEN (19) MOTORCYCLE HELMET RADIO COMMUNICATION KITS  
FOR THE POLICE DEPARTMENT, FOR A TOTAL ESTIMATED COST OF  
\$56,017**

WHEREAS, the Police Department, Traffic Unit, transitioned from using Motorola mounted radios on their police motorcycles to using a “stand-alone” portable radio system, due to frequent repairs on the older mounted radios, which created excessive downtime for the motorcycles, and

WHEREAS, the stand-alone portable radio system consists of a Motorola HT1000 radio attached to a set of Set-Com Super Mic ear speakers, and

WHEREAS, the ear speakers are mounted inside of the officer’s motorcycle helmet, and relay to a push-to-talk switch on the motorcycle, which receives and transmits calls to dispatch and other officers, and

WHEREAS, traffic officers began experiencing problems in the clarity of the reception coming from the ear speakers, and

WHEREAS, a few of the portable radio systems were brought to Set-Com for analysis, and

WHEREAS, Set-Com acknowledged there seemed to be an unusual amount of distortion in the sound coming from the ear speakers, and

WHEREAS, Set-Com gave the Police Department six (6) new sets of ear speakers to test, and

WHEREAS, these speakers were installed in the motorcycle helmets and tested, and the results were the same, distorted sound, and

WHEREAS, the Police Department contacted Set-Com several times trying to remedy the clarity problems, but was met with very slow responses, and no corrective action taken from the vendor, and

WHEREAS, the Police Department then sought the help from a local communications company, which examined the Set-Com system and discovered that the distorted sound was due from an “impedance mismatch”, caused by the Set-Com Super Mic ear speakers, and

WHEREAS, in order to correct the problem the Super Mic system would have to be dismantled and rewired, and

WHEREAS, the Police Department determined that this was not a cost effective option, and

WHEREAS, the Police Department polled the law enforcement community and found many local law enforcement agencies using portable radio equipment produced by a company named PVP Communications, Inc., located in Torrance, CA, and

WHEREAS, the Police Department contacted PVP Communications, INC. to inquire about the possibility of testing their equipment, and

WHEREAS, PVP Communications, Inc. provided the Police Department with sample equipment to test of the newest technology, “Blue-Tooth” wireless, which is proximity based, and

WHEREAS, the system senses when an officer is on his/her motorcycle, in proximity to the radio, and automatically switches to the portable radio when the officer walks away from the motorcycle, and

WHEREAS, the officer does not plug any connections into the motorcycle, thus eliminating the issue of worn out connectors (the most common reason why police motorcycles are taken out of service), and

WHEREAS, the Blue-Tooth wireless system links to a Kenwood 90 series radio, and

WHEREAS, the Kenwood radio is more weather resistant than the Motorola HT1000 currently in use, and its cost is about one-third the cost of the Motorola radio, and

WHEREAS, the Kenwood is easier to repair than the Motorola, which in turn reduces overall repair costs, and

WHEREAS, if the radio's circuit board is completely disabled due to water damage, the face of the radio is simply removed and the circuit board replaced, at a cost of about \$200.00, and

WHEREAS, the Police Department contacted several law enforcement agencies using the Kenwood radio on their police motorcycles and found no reports of weather related problems, and

WHEREAS, the Police Department has thoroughly tested the Blue-Tooth system and is very pleased with the overall test results, and

WHEREAS, motorcycle officers can clearly hear themselves speak through their helmet speakers when communicating to dispatch and other officers, and



WHEREAS, the Blue-Tooth wireless system is “cutting-edge” technology, and WHEREAS, the cost of the Blue-Tooth wireless system is about \$150.00 per unit more than the Set-Com system currently in use, however the Police Department believes that officer safety and confidence in their equipment is worth the extra cost, and

WHEREAS, because of the successful test results from the new Blue-Tooth wireless technology, providing the motorcycle officers with reliable and dependable transmission quality, and due to the inability of Set-Com to remedy the quality problems of their equipment, the Police Department recommends discontinuing the use of all Set-Com systems and converting all of their motorcycles over to the Blue-Tooth wireless system, 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 nineteen (19) motorcycle helmet radio communication kits 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 nineteen (19) motorcycle helmet radio communication kits, 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 June 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-290**

**A RESOLUTION AUTHORIZING THE RENEWAL OF AN ANNUAL  
MAINTENANCE CONTRACT FOR NOVELL SOFTWARE, FOR A TOTAL  
COST OF \$53,977.51 AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE CONTRACT**

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, this annual maintenance contract for Novell software products (ZEN, GroupWise, NetWare) will provide the City with uninterrupted technical support and future Novell product upgrades as they occur, and

WHEREAS, IT has budgeted for this item in its annual FY 04/05 budget, and

WHEREAS, all purchases which meet or exceed \$50,000.00 must be approved by Council, and

WHEREAS, at its May 23, 2005, meeting the Finance Committee supported Staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the renewal of the annual maintenance contract for Novell software in the amount of \$53,977.51 and authorizes the City Manager to execute the contract.

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 June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**RESCINDED**

OCT 25 2011

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-291**

**A RESOLUTION APPROVING THE REVISED GUIDELINES FOR THE CITY OF  
MODESTO DOWN PAYMENT ASSISTANCE PROGRAM FUNDED THROUGH COUNCIL RESOLUTION  
FUNDS, AND RESCINDING RESOLUTION NO. 2003-529.**

2011-408

WHEREAS, the City of Modesto has been providing the Down Payment Assistance Program (DPAP) since 1994; to help low and moderate income households purchase a home in Modesto, and

WHEREAS, the DPAP has been amended a number of times; the last amendment was approved by the City Council on October 7, 2003, by Resolution No. 2003-529, and

WHEREAS, staff recommends that the Down Payment Assistance Program be further amended to provide better guidelines and a better format to expedite the loan process, and make it consistent with the new pre-qualifying format, and

WHEREAS, staff is recommending the following modifications to the guidelines:

1. Change verbiage on the purchase price section of the terms and conditions to read: "The loan limit allowed under this program shall not exceed the FHA mortgage limit amount for the City of Modesto by the U.S. Department of Housing and Urban Development for the City of Modesto". (The current FHA mortgage limit allowed for Modesto is \$280,700).
2. Allow one to three-year interest buy-downs under the CalHFA program, instead of the one-year interest buy-down.
3. Require participants to select a "certified" home inspection service, complete a home inspection and pay for this inspection from private funds, regardless of the outcome of the loan.
4. Consider ratios in excess of 43% on an exception basis depending upon the overall strength of the application.
5. Applicants with no credit history must submit utility bills, cell phone bills and letters of credit from the utility companies.
6. Eligible participant(s) must contribute with a minimum initial investment of 1.5% of the sales price. Proof of the availability of these funds shall be submitted to the City of Modesto.

7. The definition of a "first-time homebuyer" is an individual (and his or her spouse) who have not owned a home during the three year period prior to purchase of a home with assistance under CDBG.

and,

WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the revised guidelines for the City of Modesto Down Payment Assistance Program as shown on Exhibit "A", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Modesto City Council Resolution No. 2003-529 is hereby rescinded effective June 8, 2005.

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 June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney



**City of Modesto**

Parks, Recreation & Neighborhoods Department



**For More Information Please Call:  
(209) 577-5247**

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ATTACHMENT "A"

**INTRODUCTION**

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Down Payment Assistance Program (DPAP) to assist low-income families purchase a home. With funding from the Community Development Block Grant (CDBG) Program and through partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The DPAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

**For more information please contact:**

**City of Modesto, Parks, Recreation and Neighborhoods  
Department  
1010 10<sup>th</sup> Street, Suite # 4300,  
Modesto, CA 95354.  
Phone Number (209) 577-5247,  
Fax Number (209) 544-3982.**

**MAXIMUM LOAN AMOUNT**

There is no application fee to apply for a DPAP loan. The maximum loan for each household is determined as follows: For households earning up to 80% of area median income (AMI), the maximum loan is up to \$60,000. The current income eligibility limits for low-income households are:

HOUSEHOLD SIZE	INCOME LIMIT	HOUSEHOLD SIZE	INCOME LIMIT
1 Person	\$29,500	5 Person	\$45,550
2 Person	\$33,750	6 Person	\$48,900
3 Person	\$37,950	7 Person	\$52,300
4 Person	\$42,150	8 Person	\$55,650

(Effective February, 2005 and updated annually)

**TERMS AND CONDITIONS**

**A. Purchase Price**

The loan limit allowed under this program shall not exceed the FHA mortgage limit amount for the City of Modesto. This loan limit shall be modified based upon information available from FHA Mortgage Limits provided by the U.S. Department of Housing and Urban Development.

The current loan limit amount for the City of Modesto is: \$280,700.

**B. Terms**

- The loan shall not accrue interest during the first five years of the term of the loan.



ATTACHMENT "A"

- During the first five years of the term of the loan, applicants shall make monthly payments of 1% annually of the original loan amount. These payments will go towards the principal of the loan.
- On the sixth year interest will start to accrue at a 3% annually on the balance of the loan. For example: The principal balance on a \$60,000 loan would only be \$57,000.00. The payments under these conditions will be approximately \$270.30.
- Applicants can qualify for a grant of 1/5 of the balance of the loan and amortize the balance under a new agreement if they meet the following conditions:
  - i. Must reside in the property purchased with the assistance of the DPAP for 10 consecutive years,
  - ii. Have a good payment history, which includes no late payments, missed payments, or payment arrangements.

Other repayment provisions include the following:

1. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership, refinancing of the property, upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).
2. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.
3. The DPAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Down Payment Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

---

**SILENT SUBORDINATE MORTGAGE/SUBORDINATION  
POLICY**

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The DPAP loan is silent, subordinate mortgage secured by a promissory note and City or Agency trust deed, and is recorded junior to the primary mortgage.

**Subordination Policy:**

Subordinations are not generally allowed. Any first lien on the property ("First Lien") held by an individual lender or investor (the "Lender") shall be prior and superior to the City Loan Agreement, the Declaration of Conditions, Covenants and Restrictions and the City Deed of Trust. However request for subordinations could be approved under the following conditions:

- The new loan shall not be larger than the original first loan.
- The new loan shall bear a fixed interest rate.
- The buyers shall not be allowed to take cash out.
- The buyers shall be responsible for paying the closing costs associated with the refinance.
- The City loan shall not be subordinated to a lower position than the original rank.
- The lender/title company shall provide a copy of cost comparison showing the original terms and the proposed new terms.
- The lender/title company shall be responsible for preparing the subordination instrument at the sole costs of the borrowers.
- The lender/title company shall submit a Good Faith Estimate.
- The lender/title company shall submit a Closing Statement of the new loan.

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**PARTICIPANT ELIGIBILITY REQUIREMENTS**

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Eligible participants must meet the following eligibility criteria in order to participate.

ATTACHMENT "A"

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the area median income (AMI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later (see income limits previously specified). CDBG funds can only be used to assist households at or below 80% of AMI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. The applicant must obtain the maximum loan amount from the first mortgage loan. The City of Modesto will determine the loan amount or gap by calculating the difference between the home sales price and the base loan amount obtained from the first mortgage loan.
3. Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.
4. Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with CDBG assistance. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)
5. Eligible participant(s) must contribute with a minimum initial investment of 1.5% of the sales price.
6. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.

7. There are some credits issues that applicants must allow for certain time to pass before they can qualify for a DPAP loan. These exceptions are as follows:

- Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)
- Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

8. Applicant's FICO (Fair Isaac Company) score must be 610 or higher.
9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

**Note:** Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

*When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original DPAP application will be considered. Applicants will not be allowed to make any material changes in the DPAP application in an attempt to reverse a City loan denial.*

ATTACHMENT "A"

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**LOCAL RESIDENCY REQUIREMENT**

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In order to be eligible to apply for the Down Payment Assistance Program, the applicant must meet the income eligibility requirements and must have:

- resided in the City of Modesto, including unincorporated areas, with a Modesto address, for the past six (6) consecutive months, or
- resided in the City of Modesto's sphere of influence, with a Modesto address, for the past six (6) consecutive months, or
- been employed in The City of Modesto for the past six (6) consecutive months.

---

**ELIGIBLE HOMES**

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Homes considered for purchase with a City DPAP loan must meet the following requirements:

1. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.  
  
*Homes are considered vacant if they have been unoccupied for at least 6 months prior to date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.*
2. A professional home inspector must inspect the property. Items identified as potential health or safety risks to the occupants must be corrected prior to any commitment of City funds. Also, any

housing code violations as determined by a professional property inspector must be corrected if they are determined to pose a health or safety risk.

3. The purchase price of the home must not exceed the current FHA Mortgage limits.
4. The property must be appraised by a licensed real estate appraiser and the appraised value of the property must equal or exceed the purchase price.
5. Houses built prior to January 1978 must be inspected for lead-based paint by a Certified Risk Assessor/ Inspector. Proof of corrections or of passing must be provided to the City prior to any commitment of City funds.

*The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.*

---

**COMBINING THE DPAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES**

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The DPAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, Stanislaus County public facilities fees (PFF) waivers/deferrals, City of Modesto CFF waivers/ deferrals, and ADDI Program. Homebuyers are encouraged to request that participating lenders apply for PFF waivers/deferrals on their behalf, since such studies may allow homebuyers to qualify for a higher mortgage.

ATTACHMENT "A"

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**ASSETS LIMITS**

---

A household's assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than \$15,000 in liquid assets to be eligible for the program. Should the household's assets be greater than \$15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

- Savings account and the average 6-month balance of checking account(s).
- Stocks, bonds, certificates of deposit, money market funds, and other investment funds.
- Inheritance, lump-sum insurance payments, already received.
- Settlements for personal or property damage already received.
- Cash value of trusts that are available to the household.
- Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
- Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
- Assets that, although owned by more than one person, allow unrestricted access by the applicant.
- Lump-sum receipts such as inheritances, jewelry, coin collections, antique cars, capital gains, etc.

- Personal property held as investment such as gems, jewelry, coin collections, etc.
- Cash value of life insurance policies.

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**CLOSING COST AND FIRST MORTGAGE LOAN TYPE LIMITATIONS**

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DPAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

- Loan origination fee
- loan discount fee,
- appraisal fee,
- title report/insurance,
- credit report,
- pre-pays,
- professional home inspections, and other normal settlement charges.

**Reimbursement for loan origination fee is limited to 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost** (applies to CHFA 1-year to 3-year buy-downs only). DPAP loans cannot be used to pay off previous debts incurred by the buyer.

ATTACHMENT "A"

**DPAP loans cannot be used with variable rate loans** (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the DPAP program are (1) one-year to (3) three-year interest rate buy-downs under the CHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down. All loans must be delivered at par with no rebate or overage to the originator.

---

**CO-SIGNER RESTRICTIONS**

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The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant's loan approval. When co-signers are required, such co-signers cannot hold title to the property being purchased with DPAP assistance. Co-signers must sign the City's Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers' income and other criteria (e.g., real estate ownership) are not considered in determining the household's eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

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**HOMEBUYER COUNSELING WORKSHOP**

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Program participants will be required to complete a homebuyer-counseling workshop from an agency approved by the City.

The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home.

The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a home, shopping for a mortgage loan, home maintenance, and budgeting, and on-going financial costs.

The workshop provider upon the participant's completion of the class will issue a certificate of completion. Participant must present the certificate (evidence of program completion) to the City of Modesto for inclusion in the City DPAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

---

**PROFESSIONAL HOME INSPECTION**

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To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a 17-days right of rescission to review the results of the home inspection.

Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front.

ATTACHMENT "A"

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**CONDITIONS FOR DISBURSING FUNDS**

---

Before disbursing any funds the homebuyer must:

1. Meet all the Down Payment Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional letter of credit.
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).

---

**APPLICATION PROCESS**

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1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications. Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.
2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.
3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the

DPAP application, verify the information, and submit the complete loan application package to the City for approval.

4. Staff will review application and prepare proper documents to submit loan to the Housing Rehabilitation Loan Committee (HRLC) for pre-qualification.
5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.
6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.
7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.
8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.
9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.
10. Escrow agent shall record the City's Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send certified documents to the City of Modesto within seven (7) working days from the date of closure.

ATTACHMENT "A"

- 11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.
- 12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

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**RECERTIFICATION**

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- 1. Annual:
  - Borrower shall be required to submit an annual affidavit of occupancy;
  - Lender shall, upon receipt provide, City with any Notice of Default on taxes;
  - City shall be named as a beneficiary on hazard insurance policies and shall be notified of modifications or cancellations of insurance coverage.
- 2. Periodic Recertification:
  - The City may require periodic recertification other than at annual where change in occupancy or other circumstances may necessitate and eligibility review.

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**VIOLATIONS AND PENALTIES**

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The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to

disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest rate from the date of violation.

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**DEBT RATIO'S GUIDELINES**

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Following are the two types of debt ratios the City of Modesto will use:

- **Front-End Ratio:** The standard guideline is 31%. The front-end ratio is the gross income divided by the new PITI (Principal, interest, taxes and insurance). Homeowners Association (HOA), mortgage payment.

The typical debts used to determine the qualifying front-end ratios are the current and or future house payment.

- **Back-end ratio:** The standard guideline is 43%. This is the gross income divided by the new PITI mortgage payment and also the minimum monthly payments from the applicant's liabilities.

The typical debts used to determine the qualifying back-end ratio's are the minimum required monthly payments on all of the following:

- Auto loans
- Student loans
- Personal loans
- Charge cards
- Child Support

ATTACHMENT "A"

- o Alimony
- o Federal Tax Lien Repayment Schedules

Ratios in excess of 41% will be considered on an exception basis depending upon the overall strength of the application.

**DETERMINING ANNUAL INCOME**

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the "gross" amount of income of *all* adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income.

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.
2. **Income of all adult household members.** The definition of Annual Income contains income "inclusions"—types of income to be counted—and income "exclusions"—types of income that are not considered (e.g., income of minors); and
3. **Anticipated to be received.** Annual income is used to determine eligibility and a household's expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.

Annual gross income shall be determined in accordance with the Code of Federal Regulations (CFR), Title 24, Part 5, Section 5.609(b)

24 CFR PART 5 ANNUAL INCOME INCLUSIONS AND EXCLUSIONS

*The following items shall be **included** in determining Annual Income:*

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);
2. Net income from the operation of a business or profession;
3. Interest, dividends, and other net income of any kind from real or personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.
4. Lottery winnings paid in periodic payments.
5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).
6. Payments in lieu of earnings such as unemployment, worker's compensation and severance pay;
7. Welfare assistance;
8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
9. All regular pay, special pay, and allowances of a member of the Armed Forces.

*The following items shall be **excluded** in determining Annual Income:*

1. Income from employment of children (including foster children) under the age of 18 years.



ATTACHMENT "A"

2. Payment received for the care of foster children.
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
5. Income of a live-in aide.
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.
7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Temporary, nonrecurring, or sporadic income (including gifts).
10. Lump sum payment of SSI and Social Security benefits.
11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

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**DOCUMENTS NEEDED TO PRE-QUALIFY FOR THE DPAP**

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The loan approval process depends on the applicant's documentation. To insure a smooth transaction, it is imperative that the applicants have all their documents gathered prior to the initial loan application. Following is a list of all the documents they will need.

**1. Down Payment Assistance Application**

**2. Employment Information:**

- Most recent two years complete tax returns with all schedules.
- Most recent two years W-2's, 1099's, etc.
- Most recent pay stubs covering one-month period.
- Verification of Employment for all adults wage earners in the applicant's household.
- *If applicable:* Self-employed will need three years tax returns and YTD Profit & Loss Statement.
- *If applicable:* Statement under penalty of perjury of unemployment status for unemployed adults.
- 

**3. Savings Information:**

- Most recent three months complete bank statements for any and all accounts with all pages.
- Most recent statement from retirement, 401k, mutual funds, money market, stocks, etc.
- If you are receiving a "gift", you must provide the complete paper trail of the money's being given to you. Typically we will need the person's bank statement that is giving you the money.
- Documentation of other income sources and asset information.

**4. Credit information:**

- Most recent statements from your bills, indicating minimum payment and account numbers.

## ATTACHMENT "A"

- Name, address and phone number of your landlord or 12 months cancelled rent checks.
- *If applicable:* should you have no credit. Copies of your most recent utility bills, cell phone bills and letters from the utility companies addressing your payment history will be needed.
- *If applicable:* copy of complete Bankruptcy and discharge papers.
- *If applicable:* if you co-signed for a mortgage, car, credit card, etc. need 12 months cancelled checks, front and rear, indicating you are not making payments.
- Copy of drivers license
- Copy of Social security card
- *If applicable:* Copy of complete Divorce, Palimony, Alimony papers
- *If applicable:* copy of green card or work permit

### 5. First Mortgage Loan Documents

- Copy of Credit Reports (for each adult applicant). First Mortgage loan application, signed by lender and applicant
- Good Faith Estimate of settlement charges.
- Truth in Lending Disclosure Statement.
- Mortgage Credit Analysis worksheet.
- *If applicable:* for FHA loans include case number.
- *If applicable:* Copy of CHFA Buy down agreement.

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### DOCUMENTS NEEDED AFTER PRE-QUALIFICATION

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After pre-qualifying for the DPAP and before disbursement of funds, applicant(s) have 30 days to submit the following documentation:

#### 1. First Mortgage Loan Documents

- Copy of the California Residential Purchase Agreement and Joint Escrow Instructions signed by the buyer and the seller. If applicable copy of the attachments/ amendments.
- Copy of current appraisal and legal description.
- First Mortgage approval letter with any conditions attached.

#### 2. Reports

- Home Inspection Report
- Termite Pest Control Report
- If the home was built before 1978 please submit a Lead Based Paint Inspection Report.

**NOTE:** The mortgage lender must submit the HUD-1 report to the City of Modesto within 5 days of closing of escrow.

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### EQUAL CREDIT OPPORTUNITY ACT

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This Down Payment Assistance Program will be implemented in ways consistent with the City of Modesto's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

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### CONFLICT OF INTEREST

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In accordance with title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-292**

**A RESOLUTION APPROVING THE DRAFT REQUIREMENTS FOR THE CITY OF  
MODESTO FIRST TIME HOMEBUYER MORTGAGE ASSISTANCE PROGRAM,  
FUNDED THROUGH STATE CALHOME FUNDS**

WHEREAS, on October 3, 2003, the City of Modesto submitted an application to the State Department of Housing and Community Development applying for a \$300,000 grant to fund the City's First Time Homebuyer Mortgage Assistance Program, funded through State CalHome funds, and

WHEREAS, on February 4, 2004, staff was notified that the City of Modesto was awarded \$300,000, and

WHEREAS, CalHome requires that each City develop the guidelines for this program based on CalHome regulations; a draft of the guidelines have been submitted and approved by the Department of Housing and Community Development, and

WHEREAS, the pertinent areas of this program are:

1. CalHome funds may be used only to provide secondary mortgage assistance in connection with a primary loan to purchase a principal place of residence.
2. The maximum loan amount for households earning up to the 80% of the area median income (AMI) is up to \$60,000.
3. Principal and interest payments shall be deferred for the term of the loan.
4. The CalHome loan shall be repaid upon sale, transfer or lease of the property, borrower's failure to occupy the property as their principal place of residence, maturity date or default of the loan.
5. The term of the loan shall be for 30 years.
6. No initial investment is required to receive the CalHome funds.
7. Loan to Value shall not exceed 100% plus 5% of the sales price to cover closing cost.
8. The interest rate shall accrue at a 3% simple fixed interest per year.

and,

WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the draft guidelines for the City of Modesto First Time Homebuyer Mortgage Assistance Program funded through State CalHome funds as shown on Attachment "B", 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 7<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**City of Modesto  
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 \$60,000.

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 secured 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 determine 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. 2005-293**

**A RESOLUTION APPROVING THE GUIDELINES FOR THE CITY OF MODESTO  
AMERICAN DREAM DOWN PAYMENT ASSISTANCE INITIATIVE (ADDI)  
PROGRAM, FUNDED THROUGH HOME FUNDS**

WHEREAS, the American Dream Down Payment Assistance Initiative (ADDI) was signed into law by President Bush on December 16, 2003, under the American Dream Down Payment Act (Public Law 108-186) (ADDI statute), and

WHEREAS, these funds were allocated to participating HOME program jurisdictions to assist low-income families become first-time homebuyers, and

WHEREAS, staff developed the guidelines for this program based on the ADDI regulations found in 24CFR Part 92.600 (Subpart M of the HOME Rule), and

WHEREAS, the pertinent areas of this program are:

1. Under ADDI, the definition of a “first-time homebuyer” is an individual (and his or her spouse) who have not owned a home during the three year period prior to purchase of a home with assistance under ADDI.
2. The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.
3. The amount of ADDI assistance provided to any low-income family cannot exceed the greater of 6% of the purchase price of a single family housing unit or \$10,000.
4. The loans are 0% interest.
5. Repayment is required upon the sale, refinance, and transfer of the property or the maturity of the loan.
6. Household annual gross income must not exceed the maximum income level provided by the U.S. Department of Urban and Housing Development.

and,

WHEREAS, the Housing Rehabilitation Loan Committee met on April 14, 2005, and the Citizens Housing and Community Development Committee met on May 6, 2005, and approved staff's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the guidelines for the City of Modesto American Dream Down payment Assistance Initiative (ADDI) funded through HOME funds as shown on Attachment "C", 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 7<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**Attachment C**  
**City of Modesto**  
**HOME**  
**American Dream Down Payment Initiative (ADDI)**

**Purpose of the Program:**

The American Dream Down Payment Initiative provides down payment assistance towards the purchase of single family housing to eligible households who are first-time homebuyers.

**Assistance:**

The assistance is provided in the form of a deferred loan and will be secured by a deed of trust.

The amount of ADDI assistance provided to any low-income family cannot exceed the greater of six percent of the purchase price of a single family housing unit or \$10,000.00.

The loan could be used in combination with other down payment assistance provided by the City of Modesto and can be recorded in third position if necessary.

**Benefits:**

Benefits of this Program include:

- No monthly payments.
- 0% interest.
- Lower housing payments.
- Reduce debt-to-income ratio makes it easier to qualify for a home loan with a private lender.
- Repayment only upon the sale, refinance, transfer of the property or maturity of the loan.
- Tax write-offs in the form of interest deductions.
- Property value appreciation and accumulation of equity.

**Eligibility:**

***Applicant Criteria:***

- Household annual gross income cannot exceed the maximum income level (See chart below)

<b>HOUSEHOLD SIZE</b>	<b>INCOME LIMIT</b>	<b>HOUSEHOLD SIZE</b>	<b>INCOME LIMIT</b>
1 Person	\$29,500	5 Person	\$45,550
2 Person	\$33,750	6 Person	\$48,900
3 Person	\$37,950	7 Person	\$52,300
4 Person	\$42,150	8 Person	\$55,650

## Attachment C

FY-2005 Income limits subject to change

- Applicant must live in the City of Modesto, including unincorporated areas/sphere of influence, with a Modesto address, for the past six (6) consecutive months, or been employed in the City of Modesto for the past six (6) consecutive months.
- Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.
- Participant(s) or any household member cannot have owned a home during the three-year period prior to the purchase of a home with assistance under ADDI.
- Eligible participant(s) earning up to 80% of the Area Median Income must contribute with a minimum initial investment of 1.5% of the sales price.
- Maximum loan amount must not exceed the FHA mortgage limits established for the City.

### ***Property Criteria:***

- The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.  
*Homes are considered vacant if they have been unoccupied for at least 6 months prior to date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.*
- Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.  
***Note:** Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.*
- The unit must be a single-family residence, condominium unit, cooperative unit, or manufactured housing on its own lot and affixed to a permanent foundation.
- The property must be located in a residentially zoned area within the city limits.



## Attachment C

- The home must undergo a professional property inspection. If the home was built prior to 1978, a Lead Based Paint inspection is also required.

*The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.*

### **Application Process:**

1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.
2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.
3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the DPAP application, verify the information, and submit the complete loan application package to the City for approval.
4. Staff will review application and prepare proper documents to submit loan to the loan committee for pre-qualification.
5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.
6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.
7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.
8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.
9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.
10. Escrow agent shall record the City's Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.

### **Attachment C**

11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.
12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-294**

**A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF BEYER COMMUNITY PARK, WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT**

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Beyer Community Park for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Beyer Community Park to Clearwire for said use for the sum of \$1,800.00 per month with a rental increase 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, Clearwire will provide a one-time payment of \$10,000 to be used towards the Parks, Recreation and Neighborhoods Department's Youth Financial Assistance program, and

WHEREAS, Clearwire will collocate on an existing ball field light pole,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Beyer Community Park, with four 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 7<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-295**

**A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF DAVIS COMMUNITY PARK, WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT**

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Davis Community Park for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Davis Community Park to Clearwire for said use for the sum of \$1,800.00 per month with a rental increase 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, Clearwire will provide a one-time payment of \$10,000 to be used towards the Parks, Recreation and Neighborhoods Department's Youth Financial Assistance program, and

WHEREAS, Clearwire will collocate on an existing ball field light pole,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Davis Community Park, with four 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 7<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahra  
JEAN ZAHRA, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-296**

**A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND CLEARWIRE LLC, A NEVADA  
LIMITED LIABILITY COMPANY, FOR A CELLULAR TOWER SITE  
LOCATED ON A PORTION OF CREEKSIDE GOLF COURSE, WITH FOUR  
FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE LEASE AGREEMENT**

WHEREAS, Clearwire LLC (Clearwire), a Nevada limited liability company, desires to lease a cellular tower site located on a portion of Creekside Golf Course for a period of five years, with four five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Creekside Golf Course to Clearwire for said use for the sum of \$850.00 per month with a rental increase 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, Clearwire is also willing to pay the City a lump sum of \$12,000 for the purpose of supporting golf programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five-Year Lease Agreement between the City of Modesto and Clearwire LLC, a Nevada limited liability company, for a cellular site located on a portion of Creekside Golf Course, with four 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 7<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-297**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE BRIGGSMORE AVENUE WIDENING, OAKDALE ROAD TO CLAUS ROAD PROJECT, AWARDING THE BID AND APPROVING A \$2,793,535 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "BRIGGSMORE AVENUE WIDENING, OAKDALE ROAD TO CLAUS ROAD," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has reviewed the plans and specifications, for the Briggsmore Avenue Widening, Oakdale Road to Claus Road project and recommends approval to the City Council, and

WHEREAS, the bids received for "Briggsmore Avenue Widening, Oakdale Road to Claus Road" were opened at 11:00 a.m. on May 10, 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 \$2,793,535 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Briggsmore Avenue Widening, Oakdale Road to Claus Road project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$2,793,535, and hereby awards George Reed, Inc, the contract titled "Briggsmore Avenue Widening, Oakdale Road to Claus Road."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-298**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT FY  
2005 BUDGET TO CLOSE CIP PROJECTS 1410-430-N495 (BRIGGSMORE –  
OAKDALE TO ROSELLE), AND 1410-430-A216 (BRIGGSMORE – ROSELLE  
TO CLAUS), RETURN FUNDS TO RESERVE BALANCE, AND RE-  
APPROPRIATE FUNDS TO ESTABLISH 1410-430-H719 (BRIGGSMORE -  
OAKDALE TO CLAUS)**

WHEREAS, the 1410-430-N495 (Briggsmore – Oakdale to Roselle) and 1410-430-A216 (Briggsmore – Roselle to Claus) are current FY2005 Capital Improvement projects, and

WHEREAS, combining the two projects will provide an economy of scale for construction costs, and

WHEREAS, certain budgetary transactions are necessary to combine two projects, and

WHEREAS, the two projects will be closed, taken to CFF Reserves, then re-opened as a new Capital Improvement project 1410-430-H719 (Briggsmore – Oakdale to Claus), and

WHEREAS, once opened as a new Capital Improvement project, a construction contract can be executed to draw from these funds,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to provide \$3,279,535 to fully fund the Briggsmore – Oakdale to Claus project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-299**

**A RESOLUTION FINDING THAT THE PROJECT IS WITHIN THE SCOPE OF  
THE VILLAGE ONE SPECIFIC PLAN (SCH NO. 90020181)**

WHEREAS, on September 11, 1990, the City Council of the City of Modesto certified the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181), and

WHEREAS, the Public Works Department, by Initial Study, EA/ET 2001-30, reviewed the proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master Environmental Impact Report (MEIR); and further, that no new or additional mitigation measures or alternatives may be required, and that, therefore, the proposed project is within the scope of the project covered by the MEIR, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a MEIR, 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 MEIR and whether the subsequent project was described in the MEIR as being within the scope of the project,

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 Briggsmore Avenue Widening – Oakdale Road to Claus Road, 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 proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road is within the scope of the project covered by the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181).
- B. The proposed construction of Briggsmore Avenue Widening – Oakdale Road to Claus Road will have no new additional significant effect on the environment not addressed in the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181).
- C. No new or additional mitigation measures are required for the proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road.
- D. No new environmental document or findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the Farmland Stabilization Initiative.
- E. There are no specific features unique to this proposed Briggsmore Avenue Widening – Oakdale Road to Claus Road that require project specific mitigation measures. All certified mitigation measures identified in the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181) will apply to all projects within the Village One Specific Plan including this project as appropriate.
- F. This Initial Study provides substantial evidence to support findings “A, B, C, D and E” above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**EXHIBIT "A"**

**INITIAL STUDY**

**EA/ET 2001-30**



City of Modesto  
**Initial Study**

**PURCHASE OF PROPERTY FOR THE  
BRIGGSMORE AVENUE/CLAUS ROAD URBAN INTERCHANGE  
WITHIN THE VILLAGE ONE COMMUNITY FACILITIES DISTRICT**

EA/ET 2001-30  
August 29, 2001

**I. PURPOSE**

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15162 of the CEQA Guidelines allows the approval of subsequent projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan.
2. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, the project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.
3. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
4. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
5. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
6. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

7. 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 Program EIR will be sufficient for this project.
8. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.
9. The Initial Study, Environmental Assessment No. EA/ET 2001-30, provides the substantial evidence to support findings 2-8 noted above.

## **II. PROJECT DESCRIPTION**

- A. Project title:  
Purchase of property for the Briggsmore Avenue/Claus Road Urban Interchange within the Village One Community Facilities District.
- B. Lead agency name and address:  
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:  
Dean Phillips, Engineering and Transportation Department, 209 577 5260
- C. Project Location:  
The project is located at the Briggsmore Avenue and Claus Road intersection, within the Village One Specific Plan.
- E. Project Sponsor:  
City of Modesto, 1010 Tenth Street, Modesto, CA 95353
- F. General Plan Designation:  
Village Residential (VR)
- G. Current Zoning:  
Specific Plan-Holding (SP-H) Zone
- H. Description of Proposed Project:  
The purchase of real property located in the Village One Specific Plan Area that is to be improved as the Briggsmore Avenue/Claus Road Urban Interchange totaling 27.84 acres for this acquisition.
- I. Surrounding land uses:  
The project is bounded on the north, south and west by developing single-family subdivisions designated in the Village One Specific Plan for residential development, and on the east by a proposed industrial area.
- J. Other public agencies whose approval is required:  
None

### **III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS**

Following is an analysis of how the project is within the scope of the Village One Program EIR and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

#### **A. Traffic and Circulation**

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan for the Claus Road Expressway. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

#### **B. Degradation of Air Quality**

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

#### **C. Generation of Noise**

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

#### **D. Vegetation and Wildlife**

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR separating residential and industrial development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

#### **E. Land Use**

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**F. Population, Employment and Housing**

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**G. Urban Design and Visual Quality**

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this precise plan is consistent with the Village One Specific Plan in terms urban design. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**H. Geology and Soils**

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**I. Hydrology**

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**J. Public Services**

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**K. Fiscal Impacts**

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**L. Cumulative Impacts**

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**M. Growth Inducing Impacts**

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The land to be acquired is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

**IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS**

- A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

- B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

**V. MITIGATION MEASURES**

Since the project is within the scope of the Village One Specific Plan Program EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

**VI. CONCLUSIONS/DETERMINATIONS OF FINDINGS**

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan.

2. As per Sections 15168 (c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, the project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.
3. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
4. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
5. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
6. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.
7. 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 Program EIR will be sufficient for this project.
8. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.
9. The Initial Study, Environmental Assessment No. EA/ET 2001-30, provides the substantial evidence to support findings 2-8 noted above.

Signature:



Dean Phillips,  
Sr. Civil Engineer

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-300**

**A RESOLUTION ACCEPTING THE WORK BY MAGNUM ENTERPRISES, INC., FOR THE "MODESTO FIRE STATION NO. 11" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$1,722,737.99 PER THE CONTRACT. TOTAL PROJECT COST IS \$2,150,090.36**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modesto Fire Station No. 11" has been completed by Magnum Enterprises, Inc., in accordance with the contract agreement dated April 6, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Modesto Fire Station No. 11" project be hereby accepted from said contractor, Magnum Enterprises, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,722,737.99 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 June 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-301**

**A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE  
CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL  
YEAR 2005/06 IN THE AMOUNT OF \$5,515,801 TO THE STANISLAUS  
COUNCIL OF GOVERNMENTS (STANCOG)**

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance Fund (STA) funds, and

WHEREAS, 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 PUC, and

WHEREAS, the City has developed an application for Fiscal Year 2005/06 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2005/06 is \$5,515,801, composed of \$4,520,139 in LTF funds and \$995,662 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2005/06 is \$11,297,766, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2005/06 is \$393,500, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California Public Utilities Code 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 annual TDA transit claim in the amount of \$5,515,801.

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 2005/06.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes. Council members: Dunbar, Jackman, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour

Noes: Council members: None

Absent: Council members: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-301A**

**A RESOLUTION ESTABLISHING THE CALCULATION FOR THE  
APPROPRIATION LIMIT FOR THE FISCAL YEAR 2005-2006 ANNUAL  
BUDGET**

WHEREAS, the Annual Budget of the City of Modesto is recommended for adoption, and Proposition 4 of the California State Constitution requires the City to establish an appropriation limit calculation for the Fiscal Year 2005-2006, 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 7th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

FY2005-2006

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2004-2005 Appropriation Limit	\$263,573,544
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Adjustment Factors

Per Capita Personal Income Change	5.26%
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Population Change (Stanislaus County)	1.95%
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Per Capita converted to a ratio	1.0526
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Population converted to a ratio	1.0195
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Calculation of factor for FY2005-2006	1.0731
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Adjustment	<u>\$19,267,226</u>
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FY2005-2006 Appropriation Limit	<u><u>\$282,840,770</u></u>
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Article XIII B places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit. Enterprise fund expenditures for fiscal year 2004/05 are estimated to be \$102 million. We are significantly below the limit when we exclude these expenditures from the calculation.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-302**

**A RESOLUTION APPROVING AMENDMENTS TO THE AGREEMENT WITH CAROLLO ENGINEERING FOR PROVISION OF ADDITIONAL PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF PHASE I OF THE WASTEWATER MASTER PLAN (WWMP) UPDATE, AS WELL AS DELETE THE ENVIRONMENTAL WORK FROM THE PHASE I AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENTS TO THE AGREEMENT**

WHEREAS, on January 26, 2004 the City Council approved an agreement in the amount of \$998,200 with Carollo Engineering to prepare Phase I of the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the Phase I scope of work included an evaluation of the City's collection system, and Phase II, scheduled to commence in Fiscal Year 2005-2006, would provide for an evaluation of the City's wastewater treatment and disposal systems, and

WHEREAS, Phase II, the assessment of the treatment and disposal system, was delayed until the 2005-06 budget year, 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, the rate/connection fee work required refining estimates for the capital improvement program, which was work beyond that originally budgeted within the Phase I WWMP Update agreement, and

WHEREAS, this additional work totaled \$134,915 and has been completed under the existing Phase I agreement, and

WHEREAS, additionally, the rate and connection fee updates require analysis of data from the treatment and disposal components of the wastewater system totaling \$163,485, a portion of which has already been completed, and

WHEREAS, the total cost for additional services provided as part of this proposed amendment to the Phase I agreement is \$298,400, and

WHEREAS, removal of the CEQA sub-consultant work in the amount of \$155,000 from the Phase I agreement is also necessary, as this work needs to be accelerated and completed prior to final adoption of the connection fees, and

WHEREAS, the net value of these amendments to the agreement is an increase in the amount of \$143,400, and

WHEREAS, funds are budgeted in account 6210-430-A209 for these amendments to the agreement, and

WHEREAS, the Finance Committee, at its May 23,2005 meeting, recommended approval of these amendments to this agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendments to the Agreement with Carollo Engineering in the amount of \$143,400 to provide professional engineering services in support of Phase I of the Wastewater Master Plan (WWMP) Update, as well as delete the environmental work from the Phase I Agreement.

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 June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-303**

**A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO  
ENGINEERING FOR PROFESSIONAL ENGINEERING SERVICES TO  
DEVELOP THE WASTEWATER JUSTIFICATION AND COST ALLOCATION  
FOR THE PROPOSED WASTEWATER SYSTEM IMPROVEMENTS STUDY  
(ENGINEER'S REPORT), APPROVING THE TRANSFER OF FUNDS FROM  
THE SEWER FUND RESERVE TO FUND THIS AGREEMENT, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, a number of the City's wastewater collection, disposal and treatment system and associated rates and connection fees are necessary in order to gather a full assessment of the City's wastewater system needs and funding/financing mechanism, and

WHEREAS, the first portion of the Wastewater Master Plan (WWMP) Update was launched in early 2004, and

WHEREAS, Phase II of the WWMP Update, the assessment of the treatment and disposal system, was delayed until the 2005-06 budget year, and

WHEREAS, both Phase I and Phase II, based on an RFP process, were to be completed by Carollo Engineering, and

WHEREAS, data collected as part of the WWMP update serves as the foundation for the system's future capital improvement program and supporting rate/fee increases, and

WHEREAS, earlier this year, the City began the process of evaluating the need for rate and connection fee increases to support existing and future needs of the wastewater system, and



WHEREAS, on April 18, 2005, the Finance Committee received preliminary findings from Carollo Engineering on the wastewater system as part of the Wastewater Master Plan update, and

WHEREAS, these preliminary findings included a projected CIP budget to be used to determine future rate and connection (development impact) fee increases, and

WHEREAS, preparation of the Engineer's Report is the next step in the rate/connection fee increase project, and

WHEREAS, the Engineer's Report will utilize the preliminary WWMP findings to provide justification for the identified capital improvements and an allocation of these associated costs to existing and future customers, and

WHEREAS, staff has negotiated a contract with Carollo Engineering to prepare the Engineer's Report on a time and materials basis, not to exceed \$127,048, and

WHEREAS, Sewer Fund Reserve funds are needed to fund this agreement, and

WHEREAS, the Finance Committee, at its May 23, 2005 meeting, recommended approval of this agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Carollo Engineering in an amount not to exceed \$127,048, for professional engineering services to develop the Wastewater Justification and Cost Allocation for the proposed Wastewater System Improvements Study (Engineer's Report).

BE IT FURTHER RESOLVED that the Council approves the transfer of funds from Sewer Fund Reserve to fund this agreement.

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 27th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-304**

**A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH  
FORESIGHT CONSULTING FOR THE REVISED SCOPE OF WORK  
RELATED TO THE WATER AND WASTEWATER USER FEE AND  
INFRASTRUTURE FEE STUDY, AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT,  
AND APPROVING TRANSFER OF FUNDS FROM THE WATER AND SEWER  
FUND RESERVES TO SUPPORT THE AMENDMENT**

WHEREAS, in December 2003, Foresight Consulting was selected to conduct the Water and Wastewater User Fee and Infrastructure Fee Study, and

WHEREAS, in October 2004, Council approved an amendment to the original agreement, which amendment totaled \$232,950, and

WHEREAS, based upon staff's experience during the Water rate/connection fee increase process, the existing agreement budget is insufficient to complete all of the sewer rate/fee increase work, and

WHEREAS, the additional work to be performed totals \$142,050, bringing the total agreement amount to \$375,000, and

WHEREAS, \$33,300 from the Water Fund Reserves and \$108,750 from Sewer Fund Reserves are needed to fund this amendment, and

WHEREAS, the Finance Committee, at its May 23, 2005 meeting, recommended approval of this 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 Foresight Consulting, in the amount totaling \$375,000 for services related to the Water and Wastewater User Fee and Infrastructure Fee Study.

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 Council approves the transfer of funds from the Water Fund Reserves in the amount of \$33,300 and from the Sewer Fund Reserves in the amount of \$108,750.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-305**

**A RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 8,  
2005 REGULAR MUNICIPAL ELECTION PAY A \$500 DEPOSIT AS A  
CONDITION OF HAVING HIS OR HER CANDIDATE STATEMENT  
INCLUDED IN THE VOTER PAMPHLET AND REQUIRING THE CITY  
CLERK TO BILL SUCH CANDIDATES FOR THEIR PRO RATA SHARE OF  
THE ACTUAL COST OF THE PRINTING OF SUCH STATEMENTS AFTER  
THE ELECTION**

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, "No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office".

WHEREAS, State Elections Code Section 13307(e) provides that before the opening of the nomination period, the Council must determine whether the candidates shall pay for their statements and it was determined that candidates will be charged a \$500.00 deposit at the time of filing their nomination form, and

WHEREAS, the City Clerk was directed, pursuant to Election Code 13307(c) to bill the candidate for any additional actual expense or refund any excess paid depending on the final actual cost.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that candidates for election in the Regular Municipal Election to be held on November 8, 2005 shall be required to pay a \$500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of June 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-306**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,  
ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE),  
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. 2003-1 (Fairview Village) (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. 2003-1 (Fairview Village) (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 December 11, 2003 and an election held on December 11, 2003 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 \$25,000,000; and

WHEREAS, the legislative body of the Community Facilities District has heretofore attempted to provide for the financing of certain public improvements related

to the development of the land within its boundaries and incidental expenses associated therewith by adopting a resolution authorizing the sale and issuance of Special Tax Bonds, approving documents relating thereto and authorizing and directing certain related actions, but the sale of the said Bonds did not take place pursuant to said resolution; and

WHEREAS, the legislative body of the Community Facilities District intends to again attempt to provide the financing of the purchasing, constructing, expanding, improving or rehabilitating certain public improvements related to the development of the land within its boundaries and appurtenances and appurtenant work in connection with the foregoing (the “Facilities”) and the incidental expenses incurred and to be incurred in connection with financing the facilities, including costs associated with the creation 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. 2003-1 (Fairview Village) Special Tax Bonds Series 2005” (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, dated as of May 1, 2005, 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, dated as of May 1, 2005 by and among Goodwin Consulting Group, as dissemination agent, the Trustee and 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 Financial Services Inc. (the “Underwriter”);

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), 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 the District Administrator 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 \$5,000,000) approved by the District Administrator or his or her designee (the "District Administrator") 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), 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 8 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, the District Administrator 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 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 District Administrator 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 6. The proposed form of the Preliminary Official Statement is hereby approved with such changes thereto as may be approved by the District Administrator 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. The District Administrator is authorized and directed to execute and deliver a certificate relating to compliance with the Rule. The District Administrator is further authorized and directed, to execute and deliver to the Underwriters a final Official Statement in substantially the form of the Preliminary Official Statement hereby approved with such changes as may be approved by the District Administrator 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 7. 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 Underwriters 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 8. The proposed form of the Bond Purchase Agreement and the sale of the Bonds pursuant thereto are hereby approved, provided that (a) the aggregate purchase price of the Bonds (exclusive of any original issue discount) shall not be less than ninety-seven and one-quarter percent (97.25%) 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 three quarters percent (6.75%), (d) the final maturity of the Bonds shall be not later than September 1, 2035 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; and, subject to such approval, the District Administrator 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 Underwriters 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 9. 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 each of the City Manager and the designee of the District Administrator is hereby authorized and directed to do so.

SECTION 10. The District Administrator and other officers of the Community Facilities District of the City of Modesto are 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 11. 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 12. 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 13. 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, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), held on the 14<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**RESCIND**

DEC - 8 2005

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-307**

**A RESOLUTION AMENDING SECTION 8 OF RESOLUTION 2003-330 ENTITLED "A RESOLUTION GRANTING SALARY AND BENEFIT CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES," TO GRANT HEALTH BENEFIT CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES INCLUDING CHARTER OFFICERS AND EXECUTIVES, FOR FY 05-06 AND FY 06-07 EFFECTIVE JULY 26, 2005**

THIS RESOLUTION WAS  
CHANGED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2005-307

WHEREAS, the City Council desires to amend Section 8 of Resolution 2003-330, to increase the City's contribution to health, dental and vision benefits for FY 05-06 and FY06-07 for unrepresented Management and Confidential employees including Charter Officers and Executives, and

WHEREAS, contributions for employees with Family coverage shall increase by \$35/month effective July 26, 2005 and by \$45/month effective July 25, 2006; contributions for employees with Employee Only coverage shall increase by \$57/month effective July 26, 2005 and by \$45/month effective July 25, 2006; and contributions for employees who Opt Out of health coverage shall increase by \$7/month effective July 26, 2005 and by \$5/month effective July 25, 2006,

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

The City's contributions to unrepresented non-sworn employees' health, dental and vision benefits are hereby increased to the following amounts:

	<u>Effective July 26, 2005</u>	<u>Effective July 25, 2006</u>
Family	\$712/month	\$757/month
Employee Only	\$435/month	\$480/month
Opt Out	\$385/month	\$390/month

RESCINUED  
NOV 1 - 2006  
The City's contributions to unrepresented sworn Fire management and unrepresented sworn Police management employees' health, dental and vision benefits are hereby increased to the following amounts:

	<u>Effective July 26, 2005</u>	<u>Effective July 25, 2006</u>
Family	\$767/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.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-308

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING BUDGET TO TRANSFER \$17,500 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND \$8,500 FROM OTHER FUND RESERVES, TO VARIOUS HEALTH BENEFITS ACCOUNTS TO PROVIDE FUNDING FOR INCREASED HEALTH BENEFITS FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES**

WHEREAS, the City Council desires to increase the City's contribution to unrepresented Management and Confidential employees Health, Dental and Vision benefits, and

WHEREAS, the FY 05-06 costs associated with these increases are estimated at \$26,000, effective July 26, 2005, and

WHEREAS, these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Operating Budget is hereby amended to transfer \$17,500 from 0100-800-8000-8003, the General Fund Reserve, and \$8,500 from other Fund reserves to various health benefit accounts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

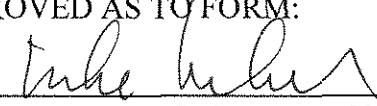
AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-309**

**A RESOLUTION AMENDING THE FY05 OPERATING BUDGET APPROVING  
THE APPROPRIATION OF \$110,000 FROM THE GENERAL FUND RESERVE  
AND TRANSFERRING THOSE FUNDS TO FUND 0700-160-1605 IN ORDER TO  
FULLY FUND ELECTRICAL UTILITY COSTS FOR THE REMAINDER OF  
FISCAL YEAR 2004/2005**

WHEREAS, electrical utility costs within the City of Modesto have increased over the course of the past two calendar years, and

WHEREAS, the City of Modesto experienced new building growth, adding more streetlights and traffic signals into our utility system, and

WHEREAS, expenditures for Fiscal Year 2004/2005 do not reflect utility costs for April, May, or June 2005, and

WHEREAS, the increase this year is estimated to be \$110,000 over our utilities budget, and

WHEREAS, the Finance Committee, at their May 23, 2005, meeting, reviewed and concurs with staff's recommendation to amend the FY05 Operating budget approving the appropriation of \$110,000 from the General Fund Reserve and transferring those funds to Fund 0700-160-1605 in order to fully fund electrical utility costs for the remainder of Fiscal Year 2004/2005, and

WHEREAS, existing policy requires City Council approval to appropriate funds from reserve to Operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY05 Operating budget approving the appropriation

of \$110,000 from the General Fund Reserve and transferring those funds to Fund 0700-160-1605 in order to fully fund electrical utility costs for the remainder of Fiscal Year 2004/2005.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the appropriation in the amount of \$110,000.

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 June 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-310**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND  
AWARDING THE BID AND APPROVING A \$294,860 CONSTRUCTION  
CONTRACT WITH COLLINS ELECTRICAL FOR THE PROJECT ENTITLED  
“TRAFFIC SIGNAL MODIFICATIONS AT 4 LOCATIONS: 9<sup>th</sup>/G STREETS,  
9<sup>th</sup>/H STREETS, 9<sup>th</sup>/J STREETS, AND YOSEMITE BOULEVARD/LA LOMA  
AVENUE,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT AGREEMENT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, “Traffic Signal Modifications at 4 Locations: 9<sup>th</sup>/G Streets, 9<sup>th</sup>/H Streets, 9<sup>th</sup>/J Streets, and Yosemite Boulevard/La Loma Avenue” and recommends approval to the City Council, and

WHEREAS, the bids received for the “Traffic Signal Modifications at 4 Locations” project were opened at 11:00 a.m., on April 26, 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 \$294,860 received from Collins Electrical be accepted as the lowest responsible bid, and the contract be awarded to Collins Electrical,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves the plans and specifications for the “Traffic Signal Modifications at 4 Locations; 9<sup>th</sup>/G Streets, 9<sup>th</sup>/H Streets, 9<sup>th</sup>/J Streets, and Yosemite Boulevard/La Loma Avenue” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Collins Electrical in the amount of \$294,860, and hereby awards Collins Electrical the contract for “Traffic Signal Modifications at 4 Locations.”

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 June 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-311**

**A RESOLUTION AMENDING THE CLASSIFICATION PLAN TO  
REALLOCATE THE POSITION OF WATER QUALITY CONTROL  
OPERATIONS SUPERVISOR TO THE POSITION OF WATER QUALITY  
CONTROL SUPERINTENDENT, ELIMINATE A VACANT SENIOR  
WASTEWATER TREATMENT PLANT OPERATOR POSITION AND REVISE  
THE JOB SPECIFICATION FOR WATER QUALITY CONTROL  
SUPERINTENDENT**

WHEREAS, historically the Public Works Department had two (2) superintendent positions, which were the Water Quality Control Superintendent and the Wastewater Collections Superintendent, and

WHEREAS, the Wastewater Collections Superintendent oversaw the wastewater and stormwater collections functions of the department, while the Water Quality Control Superintendent oversaw the treatment facilities (primary and secondary), water quality lab, composting and environmental services, and

WHEREAS, the Water Quality Control Superintendent position also functioned as the Chief Plant Operator for the City's treatment facilities and was required to possess a Grade 5 Wastewater Treatment Certificate issued by the California State Water Resources Control Board, and

WHEREAS, as a Class V Plant, the City is required to have a Grade 5 operator on staff, and

WHEREAS, in November 2002 the Water Quality Control Superintendent position was reallocated to Deputy Director, which position continued to function as the City's Chief Plant Operator, and

WHEREAS, the day to day operations of the treatment facilities were overseen by the Water Quality Control Operations Supervisor who also possessed a Grade 5 wastewater treatment certificate and could function as a backup to the Chief Plant Operator, and

WHEREAS, the Water Quality Control Operations Supervisor position was recently vacated, and

WHEREAS, to attract a quality candidate to the position, staff proposes reallocating the Water Quality Control Operations Supervisor position to the position of Water Quality Control Superintendent, which position requires the Grade 5 certificate and which certification is typically found at the Superintendent level, and

WHEREAS, funding for the reallocation is estimated at \$21,898 annually and would come from elimination of a vacant Senior Wastewater Treatment Plant Operator position, and

WHEREAS, in keeping with recent amendments to job specifications at the Superintendent level, the job specification for the Water Quality Control Superintendent position should be amended to reflect possession of a Bachelor's Degree or equivalent, as well as to incorporate other minor operational changes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Position Classification Plan to revise the job specification for the classification of Water Quality Control Superintendent. Said classification is being amended to update the Experience and Training Guidelines and License or Certificate Requirements, as well as to incorporate other minor operational changes to more accurately reflect the requirements of this classification. The revised specifications for



the classification of Water Quality Control Superintendent, as shown on the attached Exhibit "A", which are hereby made a part of this resolution by reference, are hereby approved and made a part of the Position Classification Plan of the City of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the reallocation of the position of Water Quality Control Operations Supervisor to the position of Water Quality Control Superintendent.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the elimination of one vacant Senior Wastewater Treatment Plant Operator position.

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 June 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

# Exhibit A

## Revised Job Specification for Water Quality Control Superintendent

Mayor and Council  
Water Quality Control Supervisor Reallocation  
to Water Quality Control Superintendent  
June 14, 2005

## WATER QUALITY CONTROL SUPERINTENDENT

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 insure the quality of wastewater discharge 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 ~~Assistant Utility Services~~ Deputy Director of Public Works - Operations.

Exercises direct supervision over professional, technical, maintenance and clerical 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:

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 work flow; 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 operations of a biochemical testing laboratory; review plant operating data, including laboratory tests, to determine if operational changes are necessary.

Supervise the maintenance and repairs of the City sewer system; review sampling stations and sampling techniques to assure proper sampling results.

Inspect primary and secondary plants to ensure proper operation, cleaning and safety 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.

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.

#### 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.

Principles, objectives and tests used in a biochemical laboratory.

Design and engineering of wastewater treatment and sewage 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 wastewater treatment plant, sewer system, and 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 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 ~~an Associates degree~~ a Bachelor's degree from an accredited college or university with major course work in civil engineering, environmental science, construction technology or a major related to the ~~wastewater treatment field.~~

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid ~~Grade 5 certificate~~ Grade V Wastewater Treatment Plant Operator Certificate issued by the State of California State Water Resources Control Board. ~~as issued through procedures established by the California State Water Resources Control Board.~~

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. 2005-312**

**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. 7)**

WHEREAS, this Council did, on April 26, 2005, adopt its Resolution No. 2005-182 (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 and subject to the 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. 7 of Community Facilities District No. 2004-1 ("Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on May 5, 2005, 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 12; and

WHEREAS, at the time and date set for the hearing (June 14, 2005) 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 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 14<sup>th</sup> day of June 2005. 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 June 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**SAMPLE**

**OFFICIAL BALLOT**

**BALLOT NO. \_\_\_\_\_**

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 7**

**SPECIAL TAX ELECTION**

SECTION 12. June 14, 2005

**\_\_\_\_% 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. 2005-182, 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. 7)" adopted by the City Council of the City of Modesto on April 26, 2005, 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. 2005-313**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE JUNE 14, 2005, 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. 7)**

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. 2005-182, 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. 7)" adopted on April 26, 2005, 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,

WHEREAS, the owner 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. 2005-312, adopted on June 14, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for June 14, 2005, or as soon after there as practicable, relative to the foregoing; and

WHEREAS, on June 14, 2005, 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.

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. 2005-182 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 14th day of June 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-312, 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. 7) adopted on April 26, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on June 14, 2005, 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. 2005-182, 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. 7)" adopted by the City Council of the City of Modesto on April 26, 2005, 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   5        NO   0  

\_\_\_\_\_  
Jean Zahr  
City Clerk of the City of Modesto

Dated: June 17, 2005

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005 -314**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO  
ISSUE A FORMAL REQUEST FOR QUALIFICATIONS/REQUEST FOR  
PROPOSALS (RFQ/RFP) FOR FORESTRY SERVICES**

WHEREAS, the City has primarily used internal staff to perform Forestry Services, and

WHEREAS, in 1994 an external management auditing firm, Arroyo Seco and Associates, compared City costs/outputs with outside service contractor costs present in other similar California cities, and

WHEREAS, the recommendation of the auditing firm was to continue with internal staff as costs were deemed comparable and outputs were at acceptable levels, and

WHEREAS, the budget for the Forestry Division for tree-related services is approximately \$3.2 million per year, and

WHEREAS, this budget will be significantly reduced for Fiscal Year 2005-06 due to shortfalls in the Gas Tax Fund and General Fund and, in light of these budget reductions, privatization options should be evaluated, and

WHEREAS, managed competition is a formally adopted and agreed upon process between the employee associations and City Council, and

WHEREAS, City staff is allowed to submit a proposal for services just as is done by private companies, and

WHEREAS, the managed competition process authorizes the City Manager to retain the services of a consultant to assist City staff in the preparation of a proposal, and

WHEREAS, the following services presently provided by City crews will be compared with private firms in the RFP/managed competition process:

- ✿ Brush removal
- ✿ Clearance pruning
- ✿ Cycle pruning
- ✿ Emergency response
- ✿ Mistletoe removal
- ✿ Request pruning
- ✿ Tree removal/stump grinding
- ✿ Watering of trees (optional)

and,

WHEREAS, employees are eligible to receive assistance from a consultant to prepare a proposal under the Managed Competition Policy, and

WHEREAS, the cost for the consultant is estimated at \$15,000 and would be paid from the Forestry Budget, and

WHEREAS, total costs for a managed competition process are estimated at approximately \$45,000, including staff time, and

WHEREAS, the Finance Committee approved this recommendation at its March 21, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to issue a formal RFQ/RFP for Forestry Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jakckman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-315**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
(MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE  
MANAGEMENT ASSOCIATION (MPMA) FOR A TERM OF JUNE 28, 2005  
THROUGH JUNE 22, 2009**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Management Association (MPMA) expires on June 27, 2005, and

WHEREAS, representatives of the CITY and the MPMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 2, 2005, a copy of which report is on file in the office of the City Clerk, the CITY and MPMA have reached agreement on a new MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASES. The current salary schedule effective September 21, 2004 shall remain in full force and effect through November 28, 2005.

Across-the-board salary increases shall be effective as follows:

3% effective November 29, 2005  
3% effective November 28, 2006  
4.5% effective June 26, 2007  
5.5% effective June 24, 2008

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)				
	<u>7/27/04</u>	<u>7/26/05</u>	<u>7/25/06</u>	<u>7/24/07</u>	<u>7/22/08</u>
Family	\$731.76	\$767	\$812	\$867	\$957 (max)
Single	377.98	435	480	525	570
Opt Out	377.98	385	390	400	425

The MOU provides that the City's contribution for Family coverage effective July 22, 2008 will be based on a market survey pursuant to the Modesto Police Officers' Association MOU, with a maximum increase to \$957/month.

SECTION 3. UNIFORM ALLOWANCE. Effective January 2008, uniform allowance increases from \$1100/year to \$1128/year.

SECTION 4. COURT OVERTIME, CALL BACK AND ACTING PAY. Effective June 28, 2005, the minimum Court Overtime pay increases to 4 hours on a duty day or a day off, with "call-in" pay to the Court Liaison reduced from 2 hours to 1 hour. Call Back pay shall be a 4 hour minimum at time and one-half if the appearance time occurs with less an 48 hours advance notification. If the appearance time occurs with 48 hours or more advance notification, a 2 hour minimum at time and one-half shall apply. The exception shall be, that if the appearance date and time falls on a regular day off, compensation for call back duty shall be a 4 hour minimum at time and one-half if the appearance time occurs with less than 72 hours advance notification. A Sergeant temporarily assigned to act as a Watch Commander for 6 or more hours in a day, shall be credited with 0.7 hours compensatory time off per day.

SECTION 5. BI-LINGUAL CTO. Effective June 24, 2008, Sergeants who are proficient in designated languages shall receive three hours compensatory time off per payperiod, once they have passed an oral examination.

SECTION 6. MANAGEMENT LEAVE. Effective December 2006, Lieutenants may cashout an additional 10 hours of Management Leave, followed by an additional ten hours in December 2007. Effective December 2008, all Lieutenants may cashout a maximum of 60 hours, regardless of assignment.

SECTION 7. DEFERRED COMPENSATION. Effective December 26, 2006, the City's contribution to employees' deferred compensation plan shall increase by one-half (0.5%) percent. The City currently contributes either three-fourths (0.75%) percent or one (1%) percent, depending on years of service.

SECTION 8. MASTER'S DEGREE. Effective June 27, 2006, employees who possess a Master's Degree from an accredited institution shall receive educational incentive pay of one and one-half (1.5%) percent, subject to criteria established by the City. Employees acquiring a Master's Degree after that date shall not be eligible for the incentive pay until June 24, 2008.

SECTION 9. ADDITIONAL CHANGES. Changes to the MOU also include phasing out the use of negative vacation, reduction of the cap on compensatory time off, seniority shift and vacation bidding, adjustments to Outside Work agreements, the Association Time Bank and timing for deferred compensation increases. The parties also agree to a non-arbitrable re-opener on the issue of pensions if there should be significant legislated or statutory changes due to pension reform, as well as a re-opener on alternatives to the City's current retiree health program.

WHEREAS, the Council considered this matter at its meeting of June 14, 2005,

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 Police Management Association (MPMA), which covers a term from June 28, 2005 through June 22, 2009, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-316**

**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR POLICE  
MANAGEMENT CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED  
HERETO EFFECTIVE JUNE 28, 2005, AND ADOPTED CONCURRENTLY  
WITH RESOLUTION NO. 2005-315 APPROVING THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE  
MODESTO POLICE MANAGEMENT ASSOCIATION ADOPTING SALARY  
AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR  
POLICE MANAGEMENT CLASSES**

WHEREAS, on June 14, 2005, the City Council adopted Resolution No. 2005-315 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Management Association adopting salary and benefit changes for Police Management Classes including salary schedules, 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 Police Management Classes, entitled "City of Modesto Class Range Table Police Management Classes Effective June 28, 2005" 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 14<sup>th</sup> day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
POLICE MANAGEMENT CLASSES (Represented)

Effective June 28, 2005

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RANGE	TITLE
601	
602	<b>Police Corporal</b>
603-609	
610	<b>Police Sergeant</b>
611-616	
617	<b>Police Lieutenant</b>
618-621	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-317**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET TO TRANSFER \$112,000 FROM 0100-800-8000-8003, GENERAL  
FUND RESERVE, AND \$10,800 FROM OTHER FUND RESERVES, TO THE  
POLICE DEPARTMENT OPERATING BUDGET, SALARY AND BENEFIT  
ACCOUNTS TO PROVIDE FUNDING FOR A NEW MEMORANDUM OF  
UNDERSTANDING WITH THE MODESTO POLICE MANAGEMENT  
ASSOCIATION**

WHEREAS, representatives of the City of Modesto and the Modesto Police Management Association (MPMA) have reached agreement on a Memorandum of Understanding (MOU), and

WHEREAS, the term of the MOU is June 28, 2005 through June 22, 2009, and

WHEREAS, costs associated with the first year of the MOU are estimated at \$122,800 and have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Operating Budget is hereby amended to transfer \$112,000 from 0100-800-8000-8003, the General Fund Reserve, and \$10,800 from other Fund reserves to the Police Department Operating Budget, Salary and Benefits accounts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-318**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
DAVID L. GIANELLI FROM THE TUOLUMNE RIVER REGIONAL  
PARK CITIZENS ADVISORY COMMITTEE**

WHEREAS, DAVID L. GIANELLI was appointed a member of the Tuolumne River Regional Park Citizens Advisory Committee on September 22, 1992, and

WHEREAS, DAVID L. GIANELLI has tendered his resignation from the aforementioned committee, and

WHEREAS, DAVID L. GIANELLI 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 L. GIANELLI from the Tuolumne River Regional Park Citizens 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 DAVID L. GIANELLI 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 28th day of June by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-319**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND HASHEM NARAGHI, TRUSTEE OF THE NORA NARAGHI SEPARATE PROPERTY TRUST AND CENTEX HOMES, FOR CONSTRUCTION OF A STORM DRAIN LINE IN KODIAK DRIVE BETWEEN CADEN DRIVE AND BEAR CUB LANE 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)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust (“Developer”) has agreed to install certain improvements in Kodiak Drive between Caden Drive and Bear Cub Lane, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“agreement”) between City of Modesto Community Facilities District No. 2004-1 and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$314,899.00, and

WHEREAS, 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 modified by the 1994 Final Supplemental 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:

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust (“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 .
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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-320**

**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. 8)**

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, 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 “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village

One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; and the map entitled “Annexation Map No. 5 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 2; and the map entitled “Annexation Map No. 6 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 7; and the map entitled “Annexation Map No. 7 of Community Facilities District No. 2004-1 (Village One #2), As Amended,” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 12.

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. 8 of Community Facilities District No. 2004-1 (Village One #2), of the 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 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

SECTION 5. The public facilities and services to be provided for the District are set forth in the Resolution of Formation. It is intended that these same facilities and services be provided to the Territory.

SECTION 6. The special taxes to be levied in the District are 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, August 9, 2005, 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 28th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

EXHIBIT A

ANNEXATION NO. 8 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map

**ANNEXATION MAP NO. 8 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-01  
(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 \_\_\_\_\_, 2005.

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_  
PRINT NAME

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 8 OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, HAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, BY ITS RESOLUTION NO. \_\_\_\_\_

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_  
PRINT NAME

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 BOUNDARY MAP FOR WHICH WAS RECORDED ON MARCH 16, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER, OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA. A MAP RELATED TO ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON MARCH 25, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 86, IN THAT OFFICE. (AS AMENDED BY THE MAP ENTITLED "ANNEXATION MAP NO. 1 OF COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)" RECORDED ON MAY 14, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 90, IN THAT OFFICE). A MAP OF ANNEXATION NO. 2 TO THE DISTRICT WAS RECORDED ON MAY 21, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 91, IN THAT OFFICE. A MAP OF ANNEXATION NO. 3 TO THE DISTRICT WAS RECORDED ON AUGUST 11, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 96, IN THAT OFFICE. A MAP OF ANNEXATION NO. 4 TO THE DISTRICT WAS RECORDED ON SEPTEMBER 15, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 99, IN THAT OFFICE. A MAP OF ANNEXATION NO. 5 TO THE DISTRICT WAS RECORDED ON OCTOBER 26, 2004, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 2, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 6 TO THE DISTRICT WAS RECORDED ON JANUARY 12, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 7, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON MAY 5, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 12, IN THAT OFFICE (WHICH AMENDED THE MAP OF ANNEXATION NO. 7 PRIOR RECORDED IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 9, IN THAT OFFICE).

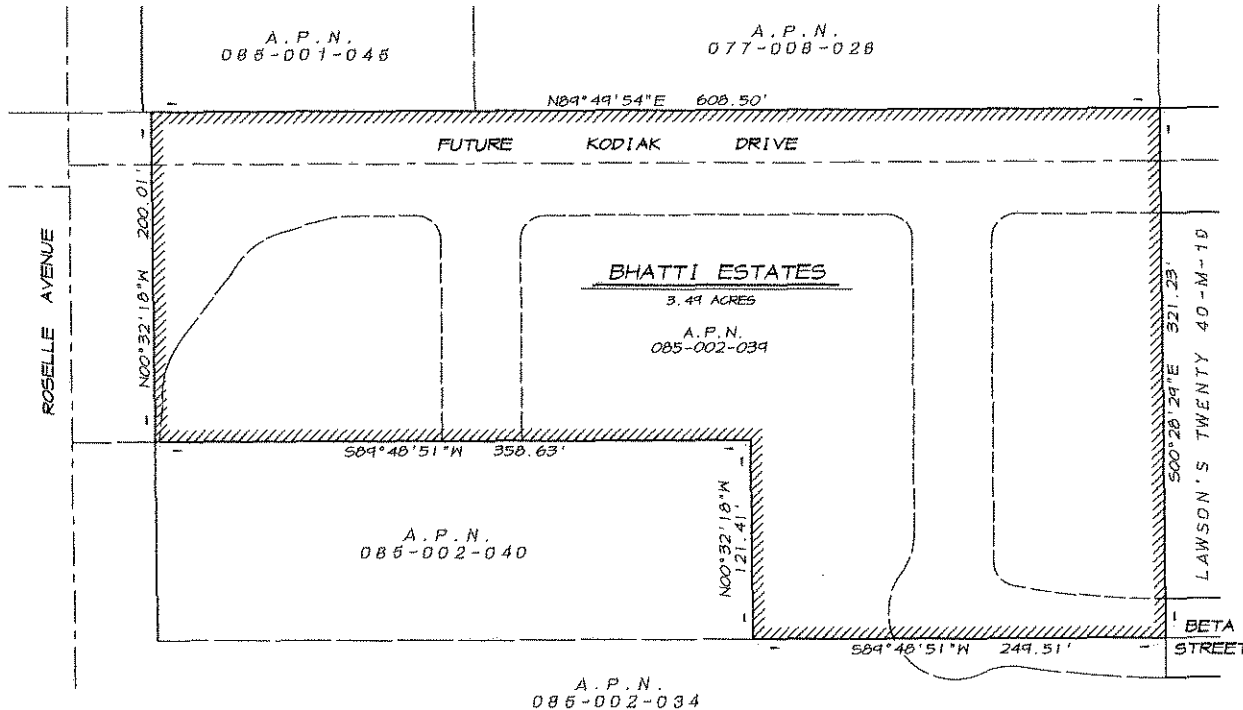
JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_  
PRINT NAME

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, 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



**BASIS OF BEARINGS**

THE BEARINGS OF SOUTH 00°45'00" EAST BETWEEN CITY OF MODESTO GPS MONUMENT NO. 2627 AND GPS MONUMENT NO. 2527 AS SHOWN ON VOL. 22 OF SURVEYS AT PAGE 51, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTE: THE DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCES BY THE COMBINATION FACTOR (.999929871) TO OBTAIN GRID DISTANCES. BASED ON THE 1992 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD83) AS SHOWN ON REFERENCE (A). - SEE THIS SHEET (LEFT) FOR DETAIL OF CALIF. STATE PLANE COORDINATE TIES.



**GRAPHIC SCALE**



1 INCH = 50 FT.

LEGEND  
 BOUNDARY OF PROPERTY TO BE ANNEXED



**ASSOCIATED  
ENGINEERING GROUP, INC.**  
 4000 TECHNOLOGY DRIVE - MODESTO, CALIFORNIA 95336  
 PH: (209) 545-3300 • FAX: (209) 545-3075

**ANNEXATION MAP No. 8 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

CITY OF MODESTO COUNTY OF STANISLAUS STATE OF CALIFORNIA

**DESCRIPTION**

BEING A PORTION OF PARCEL 79 AS SHOWN ON MAP FILED IN BOOK 4 OF PARCEL MAPS AT PAGE 143 STANISLAUS COUNTY RECORDS, AND LYING IN THE S.W. QUARTER OF THE N.W. QUARTER OF SECTION 12, T.4S, R.8E, M.D.B. & M.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005

JEAN ZAHR, CITY CLERK

**BASIS OF BEARING**

THE BEARING OF NORTH 08°30'32" EAST FOR THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 12, T.4S, R.8E, M.D.B. & M. AS SHOWN ON THE MAP FILED IN BOOK 4 OF PARCEL MAPS AT PAGE 143 STANISLAUS COUNTY RECORDS

BY: \_\_\_\_\_

PRINT NAME

**LEGEND**

----- BOUNDARY OF PROPERTY TO BE ANNEXED

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 8 TO THE 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 \_\_\_\_\_, 2005, BY ITS RESOLUTION NO. \_\_\_\_\_

JEAN ZAHR, 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 BOUNDARY MAP FOR WHICH WAS RECORDED MARCH 18, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER, OF STANISLAUS COUNTY, STATE OF CALIFORNIA. A MAP RELATED TO ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON MARCH 26, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 85, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 2 TO THE DISTRICT WAS RECORDED ON MAY 21, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 85, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 3 TO THE DISTRICT WAS RECORDED ON AUGUST 11, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 85, IN THAT OFFICE AS AMENDED BY THE MAP ENTITLED "ANNEXATION MAP NO.1 OF COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) RECORDED ON MAY 16, 2004 IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 80 IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 4 TO THE DISTRICT WAS RECORDED ON SEPTEMBER 15, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 89, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 5 TO THE DISTRICT WAS RECORDED ON OCTOBER 26, 2004, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 2, IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 6 TO THE DISTRICT WAS RECORDED ON JANUARY 12, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 7 IN THAT OFFICE. A MAP RELATED TO ANNEXATION NO. 7 TO THE DISTRICT WAS RECORDED ON MAY 5, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 12, IN THAT OFFICE. (WHICH AMENDED THE MAP OF ANNEXATION NO. 7 PRIOR RECORDED IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 9, IN THAT OFFICE.)

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_

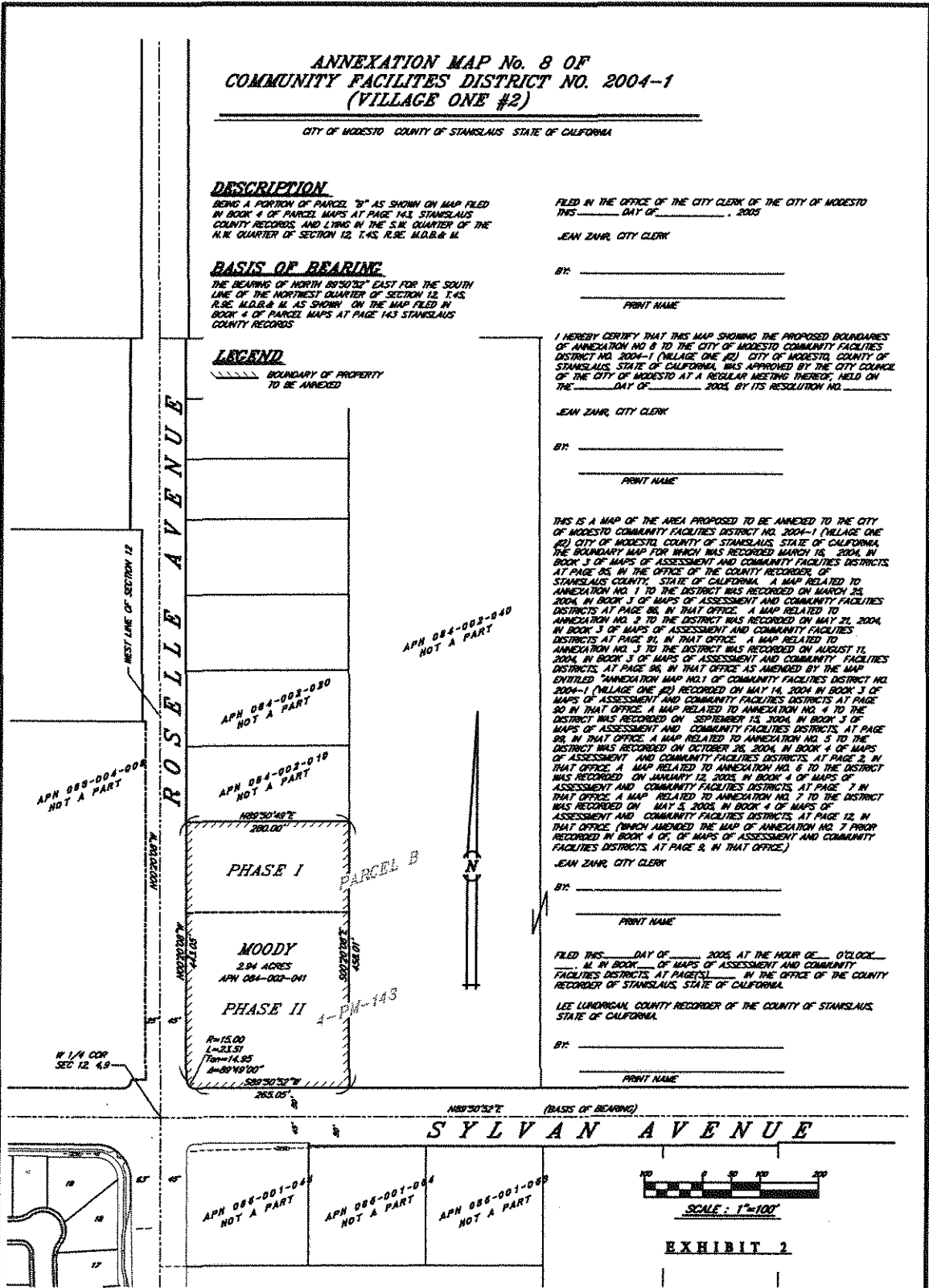
PRINT NAME

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, AT THE HOUR OF \_\_\_\_\_ O'CLOCK, \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS, STATE OF CALIFORNIA.

LEE LUNDGREN, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

BY: \_\_\_\_\_

PRINT NAME



SHEET 2 OF 2		<b>HAWKINS &amp; ASSOCIATES ENGINEERING</b> 436 MITCHELL RD. MODESTO, CA 95354 PER (209) 575 - 4285 FAX (209) 578 - 4285	ANNEXATION MAP NO. 8 COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE NO.2) MODESTO, CA	BY: GEI	RODRICK H. HAWKINS R.C.E. 90188 CROLE E. LINDSAY R.C.E. 93600 L.S. 4708									
				CHK: CL		DATE: MARCH 2005								
				SCALE: 1" = 100'	<table border="1"> <thead> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>APPROVED</th> </tr> </thead> <tbody> <tr> <td>3-22-05</td> <td>ADDED EXHIBIT 2</td> <td></td> </tr> <tr> <td>3-22-05</td> <td>AMENDED MAPPING STATEMENT</td> <td></td> </tr> </tbody> </table>	DATE	DESCRIPTION	APPROVED	3-22-05	ADDED EXHIBIT 2		3-22-05	AMENDED MAPPING STATEMENT	
DATE	DESCRIPTION	APPROVED												
3-22-05	ADDED EXHIBIT 2													
3-22-05	AMENDED MAPPING STATEMENT													
				JOB #: 2002A_TPM										

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-321**

**A RESOLUTION APPROVING A THIRD 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 website was designed, created and maintained by the Department's Web Consultant Micahlynn Rivera, and

WHEREAS, the Business Development Division has a website, specifically for site selectors searching for new business locations, and

WHEREAS, both of these sites provide the public with a wide range of Department services and information such as zoning, the Housing Element, General Plan and the Urban Growth Review, and

WHEREAS, meeting agendas, minutes and resolutions for the Planning Commission and Board of Zoning Appeal are made available on the Department website, 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, 2006, for an additional amount not to exceed \$55,000 for services as set forth in Exhibit "A" attached hereto, and

WHEREAS, the Finance Committee recommended approval of this item at its June 27, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to Agreement for website consulting services with Micahlynn Rivera through June 30, 2006, in an amount not to exceed \$55,000.

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute said Third 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 June 2005, by Councilmember Jackman, 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, Jackman, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Marsh

ATTEST Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, 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 PowerPoint presentations as needed.
  
- Technical Support  
Duties: Troubleshoot software problems and hardware problems as capable
  
- Management of special projects



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-322**

**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 \$49.39 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 Supervisor annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identified two (2) retail contract options which would best meet the City's retail advertising needs, and

WHEREAS, in August of 2004 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 August of 2004, by Resolution No. 2004-578, 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, 2005, 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 would put the “non-profit no-commitment” contract rate at \$49.39 per column inch, and

WHEREAS, this year the “12x -commitment business package” rate would include a single insertion in the Saturday Shopper and Vida for an average per column inch rate of \$29.46, and

WHEREAS, the Purchasing Supervisor 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 Supervisor, 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,

one for a 500 column inch "no-commitment" non-profit rate at \$49.39 per column inch and the other 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 special meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of June by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

Attachment "A"

Modesto Bee Advertising  
Commitment Contracts -Pricing Summary

**CURRENT PRICING- COMMITMENT CONTRACT**

Commitment 12x Retail Package Plan "D" 2004 rate is based on a \$34.28 pci rate for a standard 2x5 inch ad size, run two (2) weekdays, and one (1) Sat. or Sun. for a total of three (3) insertions.

Package Plan "D" Rate of \$102.83 per inch, x 10 inches (2x5=10" ad size)=\$1028.30 cost of a \$1028.30 divided by 30" ( #of times ad ran (3), x ad size (10")) = \$34.28 pci

**RECOMMENDED COMMITMENT CONTRACT FY 05/06**

Sign a commitment Retail Package Plan "D" contract for a 12x ad package insertion commitment. The new Retail Package Plan "D" contract 2005 rate will be based on a \$29.46 pci rate for a standard 2x5 inch ad size, run two (2) weekdays, and one (1) Sat. or Sun. for a total of three (3) insertions in the Bee combined with one-time insertions in both the Sat. Shopper and Vida all within a seven (7) day period.

Package Plan "D" Rate of \$117.83 per inch, x 10 inches (2x5=10" ad size)=\$1178.30 \$1178.30 divided by 40" inches( #of times ad ran in full circulation (4), x ad size (10")) = 29.46 pci

Your success is our business



Package Plan Rates  
**The Modesto Bee**

	1st day	2nd day	3rd day	4th day	Sat/Sun/ Holiday	Sat Shopper	Weds	Total per column inch
<b>Plan A: 2 Weekdays</b>								
Open	\$52.86	\$52.86				\$10.00	\$13.02	\$128.74
6X	\$46.56	\$46.56				\$5.00	\$10.00	\$108.12
12X	\$43.41	\$43.41				\$5.00	\$10.00	\$101.82
24X or more	\$40.27	\$40.27				\$5.00	\$10.00	\$95.54
<b>Plan B: 1 Weekday + 1 Weekend Day (or Holiday)</b>								
Open	\$52.56				\$58.30	\$10.00	\$13.02	\$134.18
6X	\$46.56				\$51.33	\$5.00	\$10.00	\$112.89
12X	\$43.42				\$47.84	\$5.00	\$10.00	\$106.26
24X or more	\$40.27				\$44.35	\$5.00	\$10.00	\$99.62
<b>Plan C: 3 Weekdays</b>								
Open	\$39.44	\$39.44	\$39.44			\$10.00	\$13.02	\$141.34
6X	\$36.29	\$36.29	\$36.29			\$5.00	\$10.00	\$123.87
12X	\$33.14	\$33.14	\$33.14			\$5.00	\$10.00	\$114.42
24X or more	\$30.00	\$30.00	\$30.00			\$5.00	\$10.00	\$105.00
<b>Plan D: 2 Weekdays + 1 Weekend Day (or Holiday)</b>								
Open	\$39.44	\$39.44			\$43.52	\$10.00	\$13.02	\$145.42
6X	\$36.29	\$36.29			\$40.03	\$5.00	\$10.00	\$127.61
12X	\$33.14	\$33.14			\$36.55	\$5.00	\$10.00	\$117.83
24X or more	\$30.00	\$30.00			\$33.06	\$5.00	\$10.00	\$108.06
40X or more	\$28.88	\$28.88			\$28.88	\$5.00	\$10.00	\$101.64
<b>Plan E: 4 Weekdays</b>								
Open	\$32.72	\$32.72	\$32.72	\$32.72		\$10.00	\$13.02	\$153.90
6X	\$29.58	\$29.58	\$29.58	\$29.58		\$5.00	\$10.00	\$133.32
12X	\$28.00	\$28.00	\$28.00	\$28.00		\$5.00	\$10.00	\$127.00
24X or more	\$26.43	\$26.43	\$26.43	\$26.43		\$5.00	\$10.00	\$120.72
<b>Plan F: 3 Weekdays + 1 Weekend Day (or Holiday)</b>								
Open	\$32.72	\$32.72	\$32.72		\$36.13	\$10.00	\$13.02	\$157.31
6X	\$29.58	\$29.58	\$29.58		\$32.64	\$5.00	\$10.00	\$136.38
12X	\$28.00	\$28.00	\$28.00		\$30.89	\$5.00	\$10.00	\$129.89
24X or more	\$26.43	\$26.43	\$26.43		\$29.15	\$5.00	\$10.00	\$123.44

For more information contact your Account Manager or Bee Advertising at (209) 578-2030

18176

2005 Package Plan Rate Card No.129 • Rates Effective July 1, 2005

Modesto Bee Retail Advertising (209) 578-2030 or Fax (209) 578-2271 [www.modbee.com](http://www.modbee.com)

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-323**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 28th day of June 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Julie Hendee  
 Telephone No.: 342-2241  
 Department: Public Works Department

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

Fund Title: Gas Tax Fund

**FY: 04-05**  
 Transfer No. \_\_\_\_\_

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

<b>FROM</b>					
05-0700-160-1612-8122R			\$28,771	\$28,771	Refunds, Damages & Cost Recovery
<b>TO</b>					

**APPROPRIATIONS**

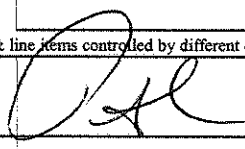
<b>FROM</b>					
05-0700-160-1612-0110	1612-A	\$672,848	(\$35,000)	\$637,848	Salaries & Wages Regular
05-0700-160-1612-0365	1612-C	\$292,213	(\$28,771)	\$263,442	Equipment Materials and Repair
<b>TO</b>					
05-0700-160-1612-0365	1612-C	263,442	\$28,771	\$292,213	Equipment Materials and Repair
0700-480-L116-6041		\$290,209	\$63,771	\$353,980	City EE Labor (OH) Intrafund

**TRANSFERS BETWEEN FUNDS**

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

**COMMENTS/JUSTIFICATION**

This budget amendment is being made to 1) Recognize revenue received in excess of those programmed in Organization 0700-160-1612-8122 (Refunds, Damages and Cost Recovery) in the amount of \$28,771 and to program offsetting expenses in object 0365 of the operating budget. AND 2) Transfer one-time salary savings in organization 0700-160-1612-0100 in the amount of \$35,000 and an additional \$28,771 from object 0365 to CIP project 0700-480-L116-6041. This transfer of funds is needed to provide the necessary funding to cover costs associated with the completion of the new Traffic Operations building.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPUTY DIRECTOR (Public Works Dept)</b> Authorized up to threshold of \$50k w/o Director Approval		
<b>DEPUTY DIRECTOR (Public Works) *</b> Authorized up to threshold of \$50k w/o Director Approval <small>* second signature required for movement of funds between CIP orgs &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</small>		
<b>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		6/17/05
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CFF/CFD ADMINISTRATOR</b> When necessary for CIP		
<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: Julie Hendec  
 Telephone No.: 342-2241  
 Department: Public Works Department

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

Fund Title: Gas Tax Fund

**FY: 04-05**  
 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**

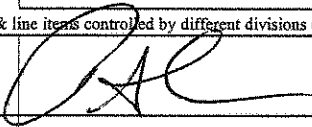
<u>FROM</u>					
05-0700-480-4622-0110	4622-A	\$251,568	(\$55,000)	\$196,568	Salaries & Wages Regular
<u>TO</u>					
0700-480-L116-6041		\$290,209	\$55,000	\$345,209	City EE Labor (OH) Intrafund

**TRANSFERS BETWEEN FUNDS**

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

**COMMENTS/JUSTIFICATION**

This budget amendment is being made to transfer one-time salary savings in Organization 0700-480-4622-0110 in the amount of \$55,000 to CIP project 0700-480-L116-6041. This transfer of funds is needed to help provide the necessary funding to cover costs associated with the completion of the new Traffic Operations building.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPUTY DIRECTOR (Public Works Dept)</b> Authorized up to threshold of \$50k w/o Director Approval		
<b>DEPUTY DIRECTOR (Public Works) *</b> Authorized up to threshold of \$50k w/o Director Approval <small>* second signature required for movement of funds between CIP orgs &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</small>		
<b>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		6/17/05
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CFF/CFD ADMINISTRATOR</b> When necessary for CIP		
<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: Julie Hendee  
 Telephone No.: 342-2241  
 Department: Public Works

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

Fund Title: 6510-Bus Service Fund-Fixed Route

FY: 04-05  
 Transfer No. \_\_\_\_\_

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

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

**APPROPRIATIONS**

<b><u>FROM</u></b> 6510-800-8000-8003	6510-R		(\$45,000)	(\$45,000)	Bus Service Fund - Fixed Route
<b><u>TO</u></b> 6510-165-1678-5700	1678-C		\$45,000	\$45,000	Non-CIP Vehicle


\$45,000

**TRANSFERS BETWEEN FUNDS**

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

**COMMENTS/JUSTIFICATION**

This budget amendment is being made to appropriate funding in the amount of \$45,000 from Transit Fund balance reserve to Organization 6510-165-1678-5700 Federal Equipment for the purchase of a shop truck for Modesto Area Express (MAX). This vehicle will replace an existing shop truck that is old and has exceeded its useful life. Funding for this purchase was identified in Decision Package 020-01 and was approved for appropriation with the adoption of the operating budget for FY 2004-05. While funding was appropriated for all of the other items included in this same Decision Package, it recently came to our attention that actions were never taken to appropriate the funding for replacement of the shop truck. This action would correct this oversight by appropriating the necessary funding for the replacement of this vehicle. Federal funding will cover 80% of the total cost with 20% match coming from Local Transportation Funds.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		6/17/05
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. 2005-324**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$100,000 FROM  
THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT'S  
REMOVE II PROGRAM – BICYCLE INFRASTRUCTURE COMPONENT –  
FOR THE VIRGINIA CORRIDOR'S PHASE III BICYCLE PATH AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPLICATION  
DOCUMENTS**

WHEREAS, the San Joaquin Valley Air Quality Control District (“SJVAQCD”) has made funding available through the REMOVE II grant, which provides funding for Class I Bike trails/paths, and

WHEREAS, development of the Virginia Avenue Corridor Trail Project (the “Project”) Class I Bike path is consistent with the SJVAQCD’s requirements for the REMOVE II grant, and

WHEREAS, said procedures established by the SJVAQCD require the applicant’s governing body to certify by resolution the approval of the application before submission of said application to the state, and

WHEREAS, the applicant will enter into a contract with the SJVAQDC for the Project,

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

1. Approves the filing of an application for \$100,000 for funds from the San Joaquin Valley Air Quality Control District through the REMOVE II grant; and
2. Certifies that the application has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
4. Authorizes the City Manager, or his designee, as 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 28<sup>th</sup> day of June 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-325**

**A RESOLUTION APPROVING A PROFESSIONAL SERVICE AGREEMENT  
WITH MARKET PLACE MEDIA TO WORK WITH THE CITY TO DEVELOP  
AND IMPLEMENT A MARKETING PLAN FOR PROGRAM SPONSORSHIP  
AND PRESENTATION SPONSORS FOR THE CITY'S PARKS, PROGRAMS  
AND FACILITIES AND AUTHORIZING THE CITY MANAGER TO SIGN THE  
AGREEMENT**

WHEREAS, on February 25, 2003, the City Council by Resolution No. 2003-95 accepted the Parks, Recreation and Neighborhoods Department's first Fund Development Report; and

WHEREAS, on May 24, 2004, the City Council by Resolution No. 2004-285 directed staff to develop presentation sponsors, and

WHEREAS, on September 27, 2004, the Finance Committee supported staff's recommendation to seek a marketing firm to assist with securing sponsorships, and

WHEREAS, the City of Modesto issued a request for proposal in the Fall of 2004 for a qualified company to develop a policy and marketing plan for program sponsorship and for the development of presentation sponsors, and

WHEREAS, the City of Modesto's RFP process did not produce an acceptable, responsive and responsible respondent, and

WHEREAS, the City of Modesto staff contacted some agencies possessing good reputations and knowledge of the local area with respect to a reduced scope of work from the original RFP, and

WHEREAS, Market Place Media answered the request with a proposal for sponsorship marketing, which contained a monthly retainer arrangement,

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves an agreement with Market Place Media for the development and implementation of program sponsorships and presentation sponsors for the City's parks, programs, and facilities.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the agreement with Market Place Media.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2005 by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-326

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND THE McHENRY MUSEUM & HISTORICAL SOCIETY TO  
PROVIDE FUNDING FOR A 1,000 HOUR EMPLOYEE TO SERVE AS THE  
MUSEUM GIFT STORE EMPLOYEE AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the McHenry Museum & Historical Society (Society) desires to provide funding for a 1,000 hour employee to serve at the McHenry Mansion Gift Store, and

WHEREAS, in addition to providing funding for salary and benefits for said employee, the Society will provide an additional 7% for administrative costs,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby approves the agreement with the McHenry Museum & Historical Society to provide funding for a 1,000 hour McHenry Museum Gift Store employee.

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 June, 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-327**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND THE McHENRY MANSION FOUNDATION TO PROVIDE  
FUNDING FOR A 1,000-HOUR EMPLOYEE TO SERVE AS THE MANSION  
GIFT STORE EMPLOYEE AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, the McHenry Mansion Foundation (Foundation) desires to provide funding for a 1,000 hour employee to serve at the McHenry Mansion Gift Store, and

WHEREAS, in addition to providing funding for salary and benefits for said employee, the Foundation will provide an additional 7% for administrative costs,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby approves the agreement with the McHenry Mansion Foundation to provide funding for a 1,000 hour McHenry Mansion Gift Store employee.

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 June 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-328**

**A RESOLUTION AMENDING RESOLUTION NO. 2004-283 ENTITLED “A RESOLUTION ESTABLISHING NEW RATES AT THE MUNICIPAL NINE-HOLE GOLF COURSE, THE DRYDEN PARK MUNICIPAL GOLF COURSE AND THE CREEKSIDE MUNICIPAL GOLF COURSE, ESTABLISHING NEW RATES FOR ANNUAL PASSES, ESTABLISHING NEW RATES FOR HIGH SCHOOL ROUNDS AND TOURNAMENT PLAY, DEDICATING \$1.00 PER 18-HOLE ROUND AT THE END OF EACH FISCAL YEAR TO THE GOLF FUND RESERVE FOR CAPITAL IMPROVEMENTS, INTRODUCING A 6-HOLE RATE AT MUNICIPAL NINE-HOLE GOLF COURSE, AND RESCINDING RESOLUTION NO. 2003-329” TO PROVIDE THAT THE POLICY OF DEDICATING \$1.00 PER ROUND OF GOLF TO THE GOLF FUND RESERVE FOR CAPITAL IMPROVEMENTS SHALL BE SUSPENDED DURING FISCAL YEAR 2004-2005**

WHEREAS, on May 25, 2004, the City Council adopted Resolution No. 2004-283 which established new rates at Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course and Creekside Golf Course, and

WHEREAS, Resolution No. 2004-283 also established new rates for annual passes, high school rounds and tournament play and introduced a 6-hole rate at Municipal Nine-Hole Golf Course, and

WHEREAS, Resolution No. 2004-283 also dedicated \$1.00 per 18-hole round at the end of each fiscal year to the Golf Fund reserve for capital improvements, and

WHEREAS, City staff is recommending that the \$1.00 per 18-hole round dedication for future capital improvements be rescinded for Fiscal Year 2004-2005 only, and

WHEREAS, the Finance Committee met on April 18, 2005 and supported rescinding those provisions of Resolution 2004-283, for Fiscal Year 2004-05 only,



establishing a \$1.00 per 18-hole round of golf to fund the Golf Fund reserve for capital improvements for, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated June 20, 2005, City staff recommended the change as outlined in the report, and

WHEREAS, Resolution No. 2004-283 is hereby amended solely to provide that the policy dedicating \$1.00 per round of golf to the Golf Fund reserve for capital improvements be suspended during Fiscal Year 2004-2005, and

WHEREAS, Resolution No. 2004-283 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 Council of the City of Modesto that except for Fiscal Year 2004-2005, it hereby approves dedicating \$1.00 per round at the end of each fiscal year to the Golf Fund to be used for capital improvements to the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course. Said dedication shall resume in Fiscal Year 2005-2006.

BE IT FURTHER RESOLVED by the City Council as follows:

SECTION 1. RATES. The rates for players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "A" attached hereto.

The policies and rates for tournament players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "B" attached hereto.

SECTION 2. DISCOUNTS. (a) School Golf Teams. School golf team passes are to be issued only upon presentation by holder of a current high school or college student body card and verification of golf team membership by the school golf coach. Students shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility. Team members with team member passes must be accompanied by their respective golf coaches and shall play only between the hours of 2:00 p.m. and 5:00 p.m. during the spring golf season. The specific spring school golf team season will be set by the golf professional after receiving the schools' schedules of matches from each school coach. Green fees at the rate of \$5.00 per round shall be implemented for high school and Modesto Junior College golf programs at the Modesto Nine Hole Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course.

(b) Junior Discounts. Junior discounts are to be given only to persons eighteen (18) years of age and younger any day after 12:00 noon. Juniors shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility.

(c) Senior/Junior/Disabled Discounts. Senior/Junior/Disabled discounts are to be given only to persons who are sixty-two (62) years of age or older or to those who are on disability retirement. Proof of age or proof of disability retirement must be displayed to obtain a Senior/Retired/Disabled discount. Discounts are good weekdays except for holidays.

Members of the five officially recognized golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.), who qualify,

will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Thursday, excluding holidays.

(d) Valu- Play Cards. Golfers can purchase a weekday, 6-round Valu-Play (multiple play) card for Dryden/Creekside or Muni. Valu-Play Discounts are effective for sixty (60) days from the date of purchase except for the months of December, January and February. During this period multiple play cards will be good for the entire three months. Multiple play cards are not refundable or transferable. The multiple play card is not good on weekends or holidays.

(e) Special Rates. From time to time, the Recreation and Neighborhoods Director or his or her designee may provide up to a fifty percent (50%) discount off of daily greens fees. Such specials shall occur no more than twenty (20) days per month at each golf course.

(f) Family Tee Program. To promote family play, golfers may play from established "family tees" to be set no more than 175 yards from the greens at Municipal Nine-Hole Golf Courses. Rates for play are \$6.00 weekdays and \$7.00 weekends. All members of the foursome or group must use the family tees for this rate to be in effect.

(g) Play one round, get the second round at half price. This discount is good on the day and at the course on which the original full-fee round is played. The fee for the second round shall be one-half of the green fee in effect at the time the second round is played.

SECTION 3. COMPLIMENTARY TICKETS. Complimentary tickets without fee may be issued by or under the direction of the Golf Course Professional to visiting

professionals or others, for services rendered to the golf course. Free play must be approved by the Parks, Recreation and Neighborhoods Director or designee.

SECTION 4. CHILDREN. Children under the age of eleven (11) will not be permitted to play golf unless accompanied by an adult playing golf.

SECTION 5. POLICY. In order for fees to be consistent and competitive with other courses in the valley, the Play Day Policy for Play at the City's Municipal Golf Courses by Non-Affiliated Groups shall continue to be implemented as set forth on Exhibit "C" attached hereto.

SECTION 6. HOLIDAYS. "Holidays", as used herein, shall mean New Year's Day (January 1st), Martin Luther King's Birthday (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4th), Labor Day (the first Monday in September), Veterans Day (November 11th), Thanksgiving Day (the fourth Thursday in November) and the day after Thanksgiving. When a holiday falls on Sunday, the following Monday shall be observed as a holiday. When a holiday falls on Saturday, the preceding Friday shall be observed as a holiday.

SECTION 7. SIGNS. The Golf Course Professional is authorized and directed to post a sign in a conspicuous place informing all golfers of the established greens fees.

SECTION 8. OFFICIALLY RECOGNIZED AFFILIATED GOLF CLUBS. Golf Clubs officially recognized under the terms of this resolution are: Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.

SECTION 9. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after June 28, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"  
 CITY OF MODESTO GOLF COURSES  
 GREEN FEE SCHEDULE  
 EFFECTIVE JULY 1, 2004

DRYDEN PARK MUNICIPAL GOLF COURSE

Weekdays, 9-holes	\$ 14.50
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 12.50
Weekdays, 18-holes	\$ 20.50
Weekdays, 18-holes (seniors/juniors/disabled)	\$ 17.00
Weekdays, 18-holes (juniors, after noon)	\$13.00
Weekdays Mid-day, 18-holes	\$ 16.50
Weekdays Super-Twilight, 18-holes	\$ 10.50
Weekdays afternoon League Play	\$ 15.00
Weekends/Holidays, 9-holes	\$ 16.50
Weekends/Holidays, 18-holes	\$ 26.50
Weekends/Holidays, 18-holes (juniors, after noon)	\$ 15.50
Weekends/Holidays Mid-day, 18-holes	\$ 19.50
Weekends/Holidays Super-Twilight, 18-holes	\$ 13.50
6-play Valu-Play booklet	\$ 105.00
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 90.00

CREEKSIDE MUNICIPAL GOLF COURSE

Weekdays, 9-holes	\$ 16.00
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 13.50
Weekdays, 18-holes	\$ 22.50
Weekdays, 18-holes (seniors/juniors/disabled)	\$ 18.50
Weekdays, 18-holes (juniors, after noon)	\$ 14.00
Weekdays Mid-day, 18-holes	\$ 17.50
Weekdays Super-Twilight, 18-holes	\$ 11.50
Weekdays afternoon League Play	\$ 16.00
Weekends/Holidays, 9-holes	\$ 18.50
Weekends/Holidays, 18-holes	\$ 29.50
Weekends/Holidays, 18-holes (juniors, after noon)	\$ 17.50
Weekends/Holidays Mid-day, 18-holes	\$ 21.50
Weekends/Holidays Super-Twilight, 18-holes	\$ 15.50
6-play Valu-Play booklet	\$ 105.00
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 90.00

MODESTO NINE HOLE MUNICIPAL GOLF COURSE (MUNI)

Weekdays, 9-holes	\$ 13.00
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 11.00
Weekdays, 9-holes (juniors, after noon)	\$ 8.50
Weekdays Mid-day, 9-holes	\$ 11.00
Weekdays Super-Twilight, 9-holes	\$ 9.00
Weekdays afternoon League Play	\$ 10.00
Weekends/Holidays, 9-holes	\$ 15.00
Weekends/Holidays, 9-holes (juniors, after noon)	\$ 9.50
Weekends/Holidays Mid-day, 9-holes	\$ 12.00
Weekends/Holidays Super-Twilight, 9-holes	\$ 10.00
6-play Valu-Play booklet	\$ 52.50
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 45.00
Weekdays, 9-holes, Family Tees	\$6.00
Weekends, 9-holes, Family Tees	\$7.00
Weekdays, 6-holes	\$6.00
Weekends, 6-holes	\$7.00

MUNICIPAL NINE-HOLE GOLF COURSE, DRYDEN PARK MUNICIPAL GOLF COURSE AND CREEKSIDE MUNICIPAL GOLF COURSE

*Annual Club Membership, Initial Membership	\$150.00
*Annual Club Membership, Every Day	\$980.00
*Annual Club Membership, Every Day, Jr./Sr.	\$860.00
*Annual Club Membership, Every Day, Family	\$1,460.00
*Annual Club Membership, Every Day, Family, Jr./Sr.	\$1,280.00
*Annual Club Membership, Week Day	\$800.00
*Annual Club Membership, Week Day, Jr./Sr.	\$670.00
*Annual Club Membership, Week Day, Family	\$1,190.00
*Annual Club Membership, Week Day, Family, Jr./Sr.	\$1,010.00

\*At Dryden Park Municipal Golf Course and Creekside Municipal Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 1:00 p.m. during Daylight Savings Time and 12:00 Noon during Standard Time on Saturdays, Sundays, and Holidays. At Municipal Nine-Hole Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 10:00 a.m. year-round on Saturdays, Sundays, and Holidays.

TOURNAMENT FEE SCHEDULE AND POLICY  
EFFECTIVE JULY 1, 2004

		FEE PER PLAYER		
		Full		
Modified Tee Style	Regular Tee	Shotgun Tee	Shotgun	
	<u>Time Style</u>	Time Style	Time	
		<u>Excluding cart</u>		
		<u>Excluding cart</u>		
<u>CREEKSIDE</u>				
	Weekday	\$32.50	\$40.50	\$40.50
	Weekends	\$39.50	\$48.50	N/A
<u>DRYDEN</u>				
	Weekday	\$30.50	\$38.50	\$38.50
	Weekends	\$36.50	\$45.50	N/A
<u>MUNI</u>				
	Weekday	\$23.00	\$25.00	N/A
	Weekend	\$25.00	\$27.00	N/A

In addition, a non-refundable deposit of \$50.00 per tournament is required.

Regular tee time style tournaments require a minimum of 28 players. Per player fees include: green fees (\$22.50 weekdays/\$29.50 weekends at Creekside, \$20.50 weekdays/\$26.50 weekends at Dryden and \$13.00 weekdays/\$15.00 weekends at Muni); and Pro Shop merchandise credit (\$5.00 at Creekside/Dryden/Muni); and golf course restaurant credit (\$5.00 at Creekside/Dryden/Muni).

Full shotgun tee time style tournaments require a minimum of 120 players at Creekside/Dryden and a minimum of 72 players at Muni. Per player fees include: green fees (\$26.50 weekdays/\$34.50 weekends at Creekside, \$24.50 weekdays/\$31.50 weekends at Dryden and \$15.00 weekdays/\$17.00 weekends at Muni); Pro Shop merchandise credit (\$7.00 at Creekside/Dryden and \$5.00 at Muni); and golf course restaurant credit (\$7.00 at Creekside/Dryden and \$5.00 at Muni). Cart rental is required for shotgun style tournaments.



Modified shotgun tee time style tournaments require a minimum of 72 players at Creekside/Dryden. Per player fees include: green fees (\$26.50 weekdays at Creekside; \$24.50 weekdays at Dryden); Pro Shop merchandise credit (\$7.00 at Creekside/Dryden); and golf course restaurant credit (\$7.00 at Creekside/Dryden). Cart rental is required for modified shotgun style tournaments. Modified shotgun style tournaments are not available at Muni.

Members of the five officially recognized affiliated golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Friday, excluding holidays.

PLAY DAY POLICY  
FOR PLAY AT THE CITY'S  
MUNICIPAL GOLF COURSES  
BY NON-AFFILIATED GROUPS

The following policy is hereby established for Non-Affiliated Groups to encourage their use of the City's municipal golf courses:

Criteria for these groups are:

1. They are a group with an identification or organizational structure;
2. They commit to use the City's golf course(s) on a regular basis (weekly, bi-weekly, monthly, etc.);
3. They have a minimum of twenty-four (24) players;
4. Regular tee-time style starting will be used (no shotgun style starting will be allowed);
5. Their events do not promote a formal competition or championship; and
6. Play days will be restricted to Monday through Wednesday after 9:00 a.m.

In recognition of their contribution to the golf program, no mandatory pro shop or restaurant fees will be assessed. Tee time reservations, in advance of public reservations, will be allowed.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-329**

**A RESOLUTION APPROVING THE PRIORITIZATION LIST FOR THE  
CAPITAL IMPROVEMENT PROGRAM (“CIP”) PROJECTS REMAINING TO  
BE CONSTRUCTED IN THE CARVER-BANGS/PELANDALE-SNYDER  
COMMUNITY FACILITIES DISTRICT (“CBPS CFD”)**

WHEREAS, in 1998 the Carver-Bangs/Pelandale-Snyder Community Facilities District (“CBPS CFD”) was formed to fund the core infrastructure needed to serve the area, and

WHEREAS, the CBPS CFD utilized traditional “pay-as-you-go” financing requiring that each developer pay a one-time tax at the time of development, and

WHEREAS, as of June 1, 2005, all one-time tax amounts have been collected except for roughly \$700,000, and the CFD will be unable to fund all of the remaining projects identified in the Public Report which currently have a total estimated cost of \$4.2M, and

WHEREAS, on June 28, 2005 staff presented a Carver-Bangs/Pelandale-Snyder Facilities Prioritization List (“Facilities Prioritization List”) to the City Council for consideration, and

WHEREAS, said Facilities Prioritization List will provide staff with direction regarding the order in which the remaining projects will be funded and constructed, and

WHEREAS, at its meeting on June 13, 2005, the Economic Development Committee recommended approval of Staff’s list of remaining projects, the proposed prioritization, the amount programmed, and the current cost estimates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Carver-Bangs/Pelandale-Snyder Facilities Prioritization List, attached hereto as Exhibit "A", is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: M. D. Milich  
MICHAEL D. MILICH, City Attorney

Exhibit "A"

Summary and Recommended Prioritization of the Remaining CIP Projects  
in the Carver-Bangs/Pelandale-Snyder CFD

CIP #	Proposed Priority	Project	Programmed in the CFD (2005 COLA)	Current Project Cost Estimate	CFD Portion	CFF Portion	Status
Q318	1	Storm Drainage Basins & Pump Stations - Construct two pump stations and install a 48" storm drain line into the East Basin.	\$1,330,000	\$1,570,000	\$1,570,000	\$0	100% Plans & Specifications are currently being reviewed by staff.
Q319	1	Prescott Rd. - Pelandale to Snyder - Widen west side of Prescott Road adjacent to the storm drain basins.	\$344,200	\$344,200	\$344,200	\$0	This project is part of the Pelandale Intersection Improvement project. Bids open on 6/21/05.
A101	1	Dale Rd. - Snyder to Pelandale- Complete landscaping in front of Dale Rd. offices near Snyder.	\$26,000	\$26,000	\$26,000	\$0	This landscaping is currently being installed by a developer and will be reimbursed through an Acquisition and Shortfall Agreement.
A102	1	Snyder Ave. - Prescott to Carver - Widen Snyder Ave. on the south side, adjacent to the canal between Prescott Rd. and Carver Rd.	\$235,300	\$285,000	\$285,000	\$0	Design is nearly complete.
????	2	Bike Trail System (Tax Area B) - Install bike trail, landscaping and fencing along Snyder Ave. between Prescott and Carver, and along the MID Lat. #6 between Carver Rd. and the Union Pacific railroad.	\$533,800	\$1,117,802	\$533,800	\$584,002	No design- The original funding split for this project was 18% CFF and 82% CFD. Because of the significant increase in the cost of the project, CFF will fund 52% and CFD will fund 48%.
X519	2	Bike Trail (Tax Area A) - Install 2,180 feet of 8'-wide bike path along MID lateral #6 between Bangs and Pelandale.	\$127,000	\$216,430	\$127,000	\$89,430	No design- The original funding split for this project was 23% CFF and 77% CFD. Because of the increase in the cost of the project, CFF will fund 41% and CFD will fund 59%.
A105	3	Bangs Ave. - American to Carver - Construct a 9' wide strip along the south side of Bangs Ave. from American Ave. to adjacent subdivision to the east.	\$93,000	\$93,000	\$93,000	\$0	Preliminary design work was performed. Need to wait for property to develop and developer to install frontage improvements.
A103	3	Tully Rd. - Pelandale to MID #6 - Widen Tully Rd. adjacent to Big Valley Grace Church and adjacent to Brent Holtz property if and when it ever develops.	\$570,000	\$570,000	\$570,000	\$0	No design. No current cost estimate is available.
X509	3	American Ave. - Pelandale to Bangs - Construct a 2' wide strip down the center of American Ave.	\$3,200	\$3,200	\$3,200	\$0	No design. No current cost estimate is available.
<b>Totals:</b>			<b>\$3,262,500</b>	<b>\$4,225,632</b>	<b>\$3,552,200</b>	<b>\$673,432</b>	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-330**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
SCENIC DRIVE BUS TURNOUT PROJECT, ACCEPTING THE BID AND  
APPROVING A \$77,812.00 CONTRACT WITH BDS CONSTRUCTION, INC.,  
FOR THE PROJECT TITLED, "SCENIC DRIVE BUS TURNOUT PROJECT,"  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the Scenic Drive Bus Turnout Project was previously bid on March 8, 2005, and no bids were received, and

WHEREAS, modifications were made to the plans and specifications to meet the current construction climate, and

WHEREAS, City staff has prepared the plans and specifications for the Scenic Drive Bus Turnout Project and recommends approval to the City Council, and

WHEREAS, the bids received for "Scenic Drive Bus Turnout Project" were opened at 11:00 a.m. on June 7, 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 \$77,812 received from BDS Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to BDS 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 Scenic Drive Bus Turnout Project.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$77,812, and hereby awards BDS Construction, Inc., the contract titled "Scenic Drive Bus Turnout Project."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-331**

**A RESOLUTION APPROVING AND ADOPTING THE WATER SYSTEM  
HYDRAULIC MODELING PROJECT AND THE FINAL DRAFT OF THE  
ASSOCIATED SYSTEM ANALYSIS REPORT (HMP REPORT)**

WHEREAS, on July 23, 2002, the City Council approved a professional services agreement with West Yost & Associates (WYA) to develop a Water System Hydraulic Model and to prepare an Associated System Analysis Report (HMP Report), and

WHEREAS, the HMP Report is now complete and provides the City with design criteria and tools to evaluate the existing and future water system needs, and

WHEREAS, WYA has submitted to the City copies of the HMP Report which contains Technical Memorandum on the following project elements: selection of modeling software, projection of water demands, system performance and design criteria, development, calibration, and verification of the water system hydraulic model, analysis of existing and future water systems, and recommended capital improvement projects, and

WHEREAS, the HMP Report work products were used in identifying the City's downstream improvements to fully integrate the distribution system with the Modesto Regional Water Treatment Plant Expansion, and

WHEREAS, the hydraulic model developed by the HMP Report is instrumental in completing capacity evaluations for new development and verifying the effectiveness of major new water system improvements, and



WHEREAS, this item was reviewed as a consent item for the Economic Development Committee meeting on June 13, 2005, and a favorable recommendation was made to forward the HMP Report to the Council for approval and adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water System Hydraulic Model and Associated System Analysis Report (HMP Report) is hereby approved and adopted.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-332**

**A RESOLUTION ACCEPTING THE NORTHERN SAN JOAQUIN VALLEY  
REGIONAL WATER RECLAMATION FEASIBILITY STUDY REPORT AND  
AUTHORIZING CITY STAFF TO APPLY FOR SUBSEQUENT GRANTS, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE APPLICATIONS  
RELATED TO SUCH GRANTS ON BEHALF OF THE CITY**

WHEREAS, On January 14, 2003, the City Council approved a professional services agreement with Raines, Melton & Carella, (RMC), Inc. to prepare the Northern San Joaquin Valley Water Reclamation Feasibility Study (Feasibility Study), and

WHEREAS, the City is currently contemplating tertiary treatment for anticipated wastewater discharge requirements, and

WHEREAS, the Feasibility Study has been recently completed, which analyzed the potential uses of tertiary treated wastewater (reclaimed water) within the City and the region, and

WHEREAS, the Feasibility Study provided preliminary market, regulatory and regionalization assessments for the potential reuse of reclaimed water, and

WHEREAS, there were five viable alternatives that were developed from stakeholder and regulatory agency meetings, regarding the potential use of reclaimed water within the region, and

WHEREAS, the recommended next steps are to apply for grants for the completion of a Facility Plan and environmental documentation and the actual construction of the recommended recycling water project, and

WHEREAS, the most feasible recycled water project could be implemented if the City is awarded a construction grant, and

WHEREAS, this item was reviewed at the Economic Development Committee meeting on June 13, 2005, and a favorable recommendation was made to forward the Feasibility Study to the Council for acceptance.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts The Northern San Joaquin Valley Water Reclamation Project Feasibility Study Report.

BE IT FURTHER RESOLVED that the Council hereby authorizes City staff continue to pursue the most economically feasible options and to apply for subsequent grants.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager to execute applications related to such grants 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 June 2005, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-333**

**A RESOLUTION AMENDING THE ORIGINAL AGREEMENT WITH RAINES,  
MELTON & CARELLA, INC., NOW RMC WATER AND ENVIRONMENT, FOR  
ADDITIONAL WORK PROVIDED IN THE AMOUNT OF \$17,869.49 AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT  
TO AGREEMENT**

WHEREAS, the City of Modesto awarded the Northern San Joaquin Valley Water Reclamation Feasibility Study (Feasibility Study) contract to Raines, Melton & Carella, (RMC) Inc., in the amount of \$150,000 in January 2003, and

WHEREAS, the City received notice on June 13, 2005 that the corporation has changed its name from Raines, Melton & Carella, Inc., to RMC Water and Environment, and

WHEREAS, the Feasibility Study analyzed the potential uses of tertiary treated wastewater within the City and the region, and

WHEREAS, the Feasibility Study has been completed and the study findings were presented to the Economic Development Committee in June 2005, and

WHEREAS, additional work was provided by RMC beyond the scope of the original agreement in order to provide a comprehensive understanding of the complex regulatory and stakeholder issues which were developed during the study, and

WHEREAS, City desires to pay the amount of the additional work provided by RMC, which is \$17,869.49, and execute an Amendment to Agreement for Consultant Services with RMC Water and Environment in said amount,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves an Amendment to Agreement for Consultant Services in the

amount of \$17,869.49 with RMC Water And Environment., for the Northern San Joaquin Valley Water Reclamation Feasibility Study.

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 28th day of June 2005, 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, Jacking Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-334**

**A RESOLUTION REALLOCATING ONE (1) ASSOCIATE CIVIL ENGINEER  
POSITION IN ORGANIZATION 5015, CAPITAL PLANNING SECTION OF  
THE PUBLIC WORKS DEPARTMENT, TO THE POSITION OF SENIOR CIVIL  
ENGINEER.**

WHEREAS, the Capital Planning section of the Public Works Department oversees Capital Improvement programs and projects associated with the City's water, wastewater and stormwater systems, and

WHEREAS, in an effort to plan for the future of these systems, the City has recently undertaken major infrastructure assessments in each of these areas, and

WHEREAS, these assessments are utilized as the basis for adjusting rates to ensure infrastructure needs are met and adequately funded, and

WHEREAS, the Capital Planning section is charged with leading these infrastructure assessments, and

WHEREAS, the Capital Planning section is currently comprised of one (1) Senior Civil Engineer, one (1) Associate Civil Engineer, two (2) Assistant Civil Engineers, and one (1) Senior Civil Engineering Assistant, and

WHEREAS, the Associate Civil Engineer has been assigned to oversee development of infrastructure assessments, particularly the master plans for water, sewer and storm drainage, and has also been very involved in the preparation of Facility Master Plans for each Specific Plan area within the City, and

WHEREAS, as the City moves toward the implementation of over \$600 million in infrastructure improvements, a reallocation of the work load will be necessary in the

Capital Planning area as the level of work needed is above that of an Associate Civil Engineer, and

WHEREAS, this Associate Civil Engineer position is currently vacant and recent recruitments in May 2005 have yielded minimally qualified candidates at the Associate level, and

WHEREAS, recruitments at the Senior Civil Engineer level have allowed for the hiring of three (3) Senior Civil Engineers in the past year, and

WHEREAS, both the Associate and Senior Civil Engineer positions require registration as a Professional Engineer (PE) and it appears that the salary level of the Senior position is the difference in the success of these recruitments, and

WHEREAS, it is staff's belief that reallocation of the vacant Associate position to Senior Civil Engineer is more reflective of the level of work to be performed by the position and would yield a more suitable candidate pool, and

WHEREAS, funding for this proposed reallocation, estimated at \$14,124 annually, will be provided through charges to projects and to the utility funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby reallocates one (1) Associate Civil Engineer position in Organization 5015, Capital Planning Section of the Public Works Department, to the position of Senior Civil Engineer.

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 June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-335**

**A RESOLUTION APPROVING THE FINAL MAP OF THE EVERGREEN  
SUBDIVISION, IN THE COFFEE CLARATINA SPECIFIC PLAN AREA, OF  
THE CITY OF MODESTO, AUTHORIZING THE CITY MANAGER TO  
EXECUTE A SUBDIVISION AGREEMENT WITH VALLEY VENTURES IV,  
LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, MERITAGE HOMES  
OF CALIFORNIA, INC., A CALIFORNIA CORPORATION, BFC PROPERTIES,  
A CALIFORNIA CORPORATION, AND BERBERIAN PROPERTIES, LLC, A  
CALIFORNIA LIMITED LIABILITY COMPANY, AND ACCEPT DEDICATION  
OF REAL PROPERTY FOR EXPANSION OF THE GRECIAN STORM  
DRAINAGE BASIN**

WHEREAS, VALLEY VENTURES IV, LLC, a California Limited Liability Company, MERITAGE HOMES OF CALIFORNIA, INC., a California Corporation, BFC PROPERTIES, a California Corporation, and BERBERIAN PROPERTIES, LLC, a California Limited Liability Company (collectively "Subdividers"), are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 10.02 acres, known as the EVERGREEN SUBDIVISION ("SUBDIVISION"), in the Coffee Claratina Specific Plan Area, and

WHEREAS, the application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on January 25, 2005, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 4<sup>th</sup> day of April, 2005, and

WHEREAS, as a condition of development of SUBDIVISION, the owners are required to dedicate property located to the east of SUBDIVISION for the purpose of expanding the Grecian Storm Drainage Basin, and

WHEREAS, Subdividers have provided the City with an executed Grant Deed dedicating Parcel No. 3 of the McHenry Avenue/Grecian Avenue Parcel Map to the City for the purpose of expanding the Grecian Storm Drainage Basin, and

WHEREAS, the Public Works Department has confirmed that the property being dedicated is in the proper location and adequately sized to accommodate said basin expansion, 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 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 subdividers have 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 is authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

BE IT FURTHER RESOLVED that the City Manager is authorized to accept the dedication of Parcel 3 of the McHenry Avenue/Grecian Avenue Parcel Map for expansion of the Grecian Storm Drainage Basin on behalf of the public.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-336**

**A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT “ANALYSIS TO IMPEDIMENTS TO FAIR HOUSING CHOICE” (AI) REPORT, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN RELATED DOCUMENTS FOR SUBMITTAL TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

WHEREAS, as a recipient of the Housing and Urban Development (HUD) federal funds, the City of Modesto is required to certify that it is affirmatively furthering fair housing, and

WHEREAS, this requirement is based on HUD’s mandate under Section 808 of the Fair Housing Act and is completed by each entitlement jurisdiction completing an “Analysis to Impediments to Fair Housing Choice (AI),” and

WHEREAS, the requirement calls for the City to engage in fair housing planning through: 1) the completion of an analysis of impediments to fair housing; 2) action to eliminate identified impediments to fair housing choices; and 3) maintenance of records demonstrating that the City took action on the identified impediments, and

WHEREAS, HUD has defined the AI as an analysis of three broad areas related to housing choice: 1) a comprehensive review of the jurisdiction’s laws, regulations, and administrative policies, procedures and practices; 2) an assessment of how those laws, regulations and administrative policies affect the location, availability and accessibility of housing; and 3) an assessment of both public and private conditions affecting fair housing choice, and

WHEREAS, the purpose of the AI is to serve as a living document for fair housing planning, to provide essential information to policy makers, housing providers

and advocates, and finally, to assist in building public support for fair housing efforts,  
and

WHEREAS, the last AI for the City of Modesto was completed in 1996, and

WHEREAS, HUD regulations require that a 30-day public comment period be held as part of the Citizen Participation process, and

WEHREAS, this 30-day period began on May 28, 2005, and will end on June 28, 2005, with a public hearing scheduled for that evening at the regular City Council meeting, and public comments will be included as part of the AI, as well as City responses to the public comments received, and

WHEREAS, submittal of an AI is required to receive the City's entitlement grants from HUD; this document also illustrates how the City can promote better fair housing programs, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its June 17, 2005, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council at its meeting of June 28, 2005, to consider submission of the Analysis to Impediments to Fair Housing Choice (AI),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Analysis to Impediments to Fair Housing Choice (AI), 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 for the submission of the

Analysis to Impediments to Fair Housing Choice (AI) to the 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 28<sup>th</sup> day of June 2005, by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

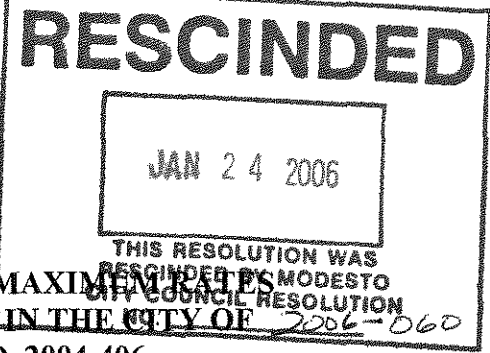
NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-337**

**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. 2004-406**

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 an adjustment in the maximum rates, and

WHEREAS, the City has conducted an analysis of the base maximum rates using the audited financial statements provided by the garbage haulers, and

WHEREAS, new maximum rates have been calculated based on adjustments to the base maximum rates for cost decreases and increases, and a recommendation for a new maximum rate schedule has been developed, and

WHEREAS, the Economic Development Committee met on June 13, 2005 and recommended this item to the full Council for its consideration, and

WHEREAS, a report dated June 28, 2005, 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 28, 2005, 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 contained in Exhibit "1", attached hereto 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, 2005, 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. 2004-406 is hereby rescinded, effective July 1, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, 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 \$18.95 per month regardless of size of container. The maximum rate for each additional garbage container shall be \$14.12 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 \$15.95. The maximum rate for each additional garbage container shall be \$14.12 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	31.54	52.59	73.61	94.65	115.69	136.73
1½ CY	42.08	73.62	105.20	136.48	168.64	199.86
2 CY	52.59	94.65	136.73	178.80	220.86	262.93
3 CY	73.61	136.73	199.83	262.93	326.05	389.15
4 CY	94.65	178.80	262.93	347.08	431.22	515.37
5 CY	115.69	220.86	326.05	431.22	536.41	641.58
6 CY	136.73	262.93	389.15	515.37	641.58	767.80

**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 - \$191.35 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 \$191.35 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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-338**

**A RESOLUTION AUTHORIZING THE FILING OF AN AMENDMENT TO  
GRANT NUMBER CA-03-0562 FOR THE NEW BUS MAINTENANCE FACILITY  
WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER SECTION 5309  
OF THE FEDERAL TRANSIT ACT AND AUTHORIZING THE CITY  
MANAGER 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, the City of Modesto had an approved Federal Transit Administration (FTA) Section 5309 grant for \$3,668,116 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, on June 24, 2003, the City Council approved Amendment No. 1 to the Section 5309 grant that added \$445,585 to the approved amount of federal funds for said project, and

WHEREAS, \$3,614,907 in Section 5309 federal funds for the Bus Maintenance Facility have been earmarked by Congress for this project, and

WHEREAS, an amendment to the current Section 5309 grant, as amended by Amendment No. 1, is required to access these earmarked funds, and

WHEREAS, the Bus Maintenance Facility project funds in the Section 5309 grant amendment application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG on February 9, 2005, and

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

WHEREAS, by a report to the Council dated June 13, 2005, from the Public Works Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, and

WHEREAS, the Modesto City Council conducted a Public Hearing on June 28, 2005, 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 authorizes the City Manager, or his designee, to execute and file an amendment to Federal Section 5309 Grant Number CA-03-0562 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 authorized to execute and file the annual certifications and assurances and other documents the Federal Transit Administration requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the 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 28<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-339**

**A RESOLUTION AUTHORIZING THE FILING OF A SECTION 5307  
APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR  
PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND  
AUTHORIZING THE CITY MANAGER 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 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 \$3,482,993 for FY 2004-2005, and

WHEREAS, the projects in the Section 5307 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 June 13, 2005, from the Public Works Department, City staff recommended submitting a grant application for \$3,482,993 in Section 5307 formula FTA 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 June 28, 2005, 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 authorizes the City Manager, or his designee, to execute and file an application for Federal Section 5307 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 and file the annual certifications and assurances and other documents the Federal Transit Administration requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the 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 28<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-340**

**A RESOLUTION ADOPTING THE STANISLAUS AND TUOLUMNE RIVERS  
GROUNDWATER BASIN ASSOCIATION'S (STRGBA) INTEGRATED  
GROUNDWATER MANAGEMENT PLAN FOR THE MODESTO SUBBASIN**

WHEREAS, the City of Modesto entered into a Memorandum of Understanding (MOU) in September 2001 to re-form the Stanislaus and Tuolumne Rivers Groundwater Basin Association (STRGBA) to coordinate water resource planning efforts with other water supply agencies within the Modesto Sub-basin, and

WHEREAS, the California Legislature passed Assembly Bill (AB) 3030, which is designed to provide local public agencies increased management authority over their groundwater resources through the adoption of a Groundwater Management Plan, and

WHEREAS, in September 2002, the State of California passed two laws (SB 1938 and SB 1672), which encourage local agencies to work cooperatively in the preparation of integrated regional water management plans, and

WHEREAS, the implementation of the Integrated Regional Groundwater Management Plan (IRGMP) for the Modesto Groundwater Sub-basin and performance of specific actions identified in the plan will enable better understanding and management of the groundwater sub-basin, and

WHEREAS, a Public Hearing was held June 28, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located in the Basement at 1010 Tenth Street, Modesto, California, for public comments regarding the adoption of the plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Stanislaus and Tuolumne Rivers Groundwater Basin

Association's Integrated Regional Groundwater Management Plan for the Modesto Sub-basin.

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 June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-341**

**A RESOLUTION AUTHORIZING CITY STAFF TO APPLY FOR VARIOUS  
WATER RELATED GRANTS, INCLUDING PROPOSITION 50, CHAPTER 8  
FUNDING, THROUGH THE 2005/06 AND 2006/07 FISCAL YEARS, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE APPLICATIONS  
RELATED TO SUCH GRANTS ON BEHALF OF THE CITY**

WHEREAS, the City of Modesto receives approximately 60% of its annual water supply from groundwater wells located throughout the City and has experienced a decline in groundwater quality at a number of well sites, which has resulted in those wells being taken out of service, and

WHEREAS, the City of Modesto overlies two groundwater basins, the Modesto Groundwater Sub-basin (MGB) and the Turlock Groundwater Sub-basin (TGB), and

WHEREAS, the Local Groundwater Management Assistance Act of 2000 (California Water Code Section 10795 *et seq.*) was enacted to allow the Department of Water Resources (DWR) to administer grants to local agencies to conduct groundwater monitoring and studies, and

WHEREAS, the Proposition 50 Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 Grant Program encourages an integrated regional approach to water resources management by supporting projects that protect communities from drought, improve water quality, and reduce dependency on imported water, and

WHEREAS, concurrent with this resolution, the Council adopted Resolution No. 2005-340, which adopted the Stanislaus and Tuolumne Rivers Groundwater Basin Association's Integrated Regional Groundwater Management Plan for the Modesto Sub-basin, and

WHEREAS, a Public Hearing was held June 28, 2005, at 5:30 p.m. in the Tenth Street Place Chambers located in the Basement at 1010 Tenth Street, Modesto, California, for public comments regarding the adoption of the plan and submission of various water-related grant applications, and

WHEREAS, preference will be given to grant proposals that include integrated projects with multiple benefits, improve local and regional water supply reliability, contribute towards improving water quality standards, reduce pollution in impaired waters, and improve groundwater management, and

WHEREAS, the Integrated Regional Groundwater Management Plan has identified regional groundwater studies that are eligible for state grant funding,

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized and directed to execute the necessary applications for such grants.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-342**

**A RESOLUTION APPROVING A TAX-EXEMPT BOND FINANCING TO BE  
ISSUED BY THE CALIFORNIA STATEWIDE COMMUNITIES  
DEVELOPMENT AUTHORITY TO BENEFIT SUTTER HEALTH AND  
CERTAIN AFFILIATES**

WHEREAS, Sutter Health, Sutter Gould Medical Foundation and certain other affiliates of Sutter Health, each a nonprofit public benefit corporation (collectively, the “Health Institutions”), have requested that the California Statewide Communities Development Authority (the “Authority”) issue bonds in one or more series in an aggregate principal amount not to exceed \$400,000,000 (the “Bonds”) for the purpose of, among other things, financing or refinancing the acquisition, improvement and equipping (the “Financing”) of certain health facilities owned or operated by the Health Institutions, including Sutter Gould Medical Foundation (the “Facilities”) located in the City of Modesto (the “City”);

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;

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;

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;

WHEREAS, the Authority has also requested that the Council approve, for purposes of Section 9 of the Agreement, the issuance of any bonds to be issued by the Authority to refund the Bonds; 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 by the Authority. It is the purpose and intent of the Council that this Resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (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, which shall also be deemed satisfied for any Authority bonds issued to refund the Bonds.

Section 2. 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 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 28th day of June 2005, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-343**

**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 2005/2006, and

WHEREAS, the rates charged by health insurance carriers will increase by 24% for Kaiser and 9% for PacifiCare, and

WHEREAS, mental health rates will increase by 13% and the City's self-insured dental rates by 10.7%, and

WHEREAS, the City's self-insured vision rates will increase by 6.1%, and the chiropractic rates will remain the same, and

WHEREAS, the EBC voted to continue to offer both PacifiCare and Kaiser, and

WHEREAS, Kaiser has discontinued offering Preferred Provider Option (PPO) to all employees, and

WHEREAS, PacifiCare continues to offer Preferred Provider Option (PPO) to all employees, 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 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 regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of June 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-343A**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
DECLARING THAT NO SUBSTANTIAL CHANGES HAVE OCCURRED IN  
THE CIRCUMSTANCES IN WHICH THIS PROJECT HAS BEEN  
UNDERTAKEN AND THAT PURSUANT TO SECTION 15162 OF THE CEQA  
GUIDELINES, NO NEW ENVIRONMENTAL REVIEW NEEDS TO BE  
COMPLETED FOR AN ORDINANCE AMENDING THE LEVY OF SPECIAL  
TAXES WITHIN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT  
2004-1 FOR TAX ZONE 2**

WHEREAS, THE City Council adopted the Village One Facilities Master Plan Update and said update was certified by the Council on May 6, 2003, and

WHEREAS, an Ordinance entitled "An Ordinance of the City Council of the City of Modesto Authorizing the Levy of Special Taxes within City of Modesto Community Facilities District No. 2004-1 (Village One #2) has been introduced to the Council, and

WHEREAS, said Ordinance is intended to create a Tax Zone 2 which will fund the projects listed in the Village One Facilities Master Plan, and

WHEREAS, the Ordinance does not change or alter any of the projects for which the Facilities Master Plan was adopted, and

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

1. No changes have been proposed in this project subsequent to the just referenced action which would require important revisions of the environmental document and,
2. No substantial changes have occurred in the circumstances under which the project is undertaken which would require such changes and,

3. Pursuant to Section 15162 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 and,
4. The Council finds that this project is consistent with the EIR (SCH No. 90020181).

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 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-344**

**A RESOLUTION AUTHORIZING THE FIRE CHIEF TO PURCHASE ONE 105-  
FOOT HEAVY DUTY AERIAL LADDER TRUCK WITH “ALL WHEEL  
STEERING” FROM PIERCE MANUFACTURING, THROUGH GOLDEN  
STATE FIRE APPARATUS, MODESTO, CALIFORNIA FOR A TOTAL COST  
OF \$702,685.59**

WHEREAS, the Modesto Fire Department uses sixteen engine companies and two truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of thirteen engine companies and two truck companies, and

WHEREAS three 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, a truck company’s useful lifespan is projected at fifteen years in front line service and ten in reserve status, and

WHEREAS, currently, there is no reserve ladder truck in the Fire Department fleet to be used when one of the front line ladder trucks are out of service for repair 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 is the only manufacturer that provides “all wheel steer” technology, and

WHEREAS, Pierce Manufacturing was declared the "sole source" vendor, and  
WHEREAS, purchasing the 105-foot Heavy Duty Aerial Ladder Truck With "All  
Wheel Steering" from Pierce will maintain our operational costs, system reliability and  
consistent apparatus platform, and

WHEREAS, this truck is budgeted for in the Fire Department's budget, and

WHEREAS, the Safety and Communities Committee approved this request on  
June 6, 2005, 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 one 105-Foot Heavy Duty Aerial Ladder Truck  
with "All Wheel Steering" from Pierce Manufacturing, for the sum of \$702,689.59.

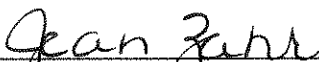
The foregoing resolution was introduced at a regular meeting of the Council of  
the City of Modesto held on the 5th day of July 2005, by Councilmember Jackman, who  
moved its adoption, which motion being duly seconded by Councilmember Hawn, was  
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-345**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 FIRE DEPARTMENT OPERATING BUDGET AND AUTHORIZING THE CITY MANAGER TO APPROVE THE FOLLOWING INTRA-FUND TRANSFERS: 1) TRANSFER \$20,000.00 FROM FY04/05 0100-180-1802-5623 TO FUND 1320 and 2) TRANSFER \$540,000 FROM FY05/06 0100-180-1802-0223 TO FUND 1320, FOR THE PURCHASE OF ONE 105-FOOT HEAVY DUTY AERIAL LADDER TRUCK WITH "ALL WHEEL STEERING" FROM PIERCE MANUFACTURING, THROUGH GOLDEN STATE FIRE APPARATUS, MODESTO, CALIFORNIA FOR A TOTAL COST OF \$702,685.59, AND APPROPRIATE A TRUCK PURCHASE ACCOUNT: 1320-180-1899-5XXX**

WHEREAS, the Modesto Fire Department uses sixteen engine companies and two truck companies in its current fire/life safety delivery system, and

WHEREAS, a truck company's useful lifespan is projected at fifteen years in front line service and ten in reserve status, and

WHEREAS, currently, there is no reserve ladder truck in the Fire Department fleet to be used when one of the front line ladder trucks are out of service for repair and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, the Modesto Fire Department desires to purchase a 105-foot Heavy Duty Aerial Ladder Truck With "All Wheel Steering" from Pierce, and

WHEREAS, purchasing the truck will maintain our operational costs, system reliability and consistent apparatus platform, and

WHEREAS, the truck purchase qualifies for the use of Capital Facilities Fees (CFF), and

WHEREAS, in order to track the use of CFF, an intra-fund transfer will be made to CFF from the Fire Department's operating budget in the amount of \$560,000, which

includes \$20,000 in apparatus acquisition savings for Fiscal Year 04-05 and the apparatus acquisition budget of \$540,000 for Fiscal Year 05-06, and

WHEREAS, Fire CFF will provide the balance of \$142,685.59, and

WHEREAS, the Safety and Communities Committee approved this request on June 6, 2005, for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to approve the following appropriation transfers: 1) \$20,000.00 from FY04-05-0100-180-1802-5623 to fund 1320; 2) \$540,000 from FY 05-06-0100-180-1802-0223 to fund 1320, for the purchase of one 105-Foot Heavy Duty Aerial Ladder Truck with "All Wheel Steering" from Pierce Manufacturing, for the sum of \$702,689.59.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of July 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-346**

**A RESOLUTION APPROVING THE FINAL MAP OF THE HACIENDA DEL SOL UNIT NO. 1 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, OF THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH HASHEM NARAGHI, TRUSTEE OF THE NORA NARAGHI SEPARATE TRUST UNDER AGREEMENT DATED NOVEMBER 7, 2000, AND CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP**

WHEREAS, HASHEM NARAGHI, Trustee of the Nora Naraghi Separate Trust Under Agreement Dated November 7, 2000, and CENTEX HOMES, a Nevada General Partnership, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 17.622 acres, known as the HACIENDA DEL SOL UNIT NO. 1 SUBDIVISION (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on August 7, 2003, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 25<sup>th</sup> 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 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 5<sup>th</sup> day of July 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-347**

**A RESOLUTION APPROVING AN AMENDMENT TO AN ENGINEERING SERVICES AGREEMENT WITH THE URS CORPORATION IN THE AMOUNT OF \$15,000 TO SUPPORT THE PROCUREMENT OF AN AUTOMATIC VEHICLE LOCATION (AVL) SYSTEM FOR MODESTO AREA EXPRESS (MAX) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT ON BEHALF OF THE CITY**

WHEREAS, the City Council approved an agreement with the URS Corporation of Santa Ana, California on February 26, 2002 in the amount of \$55,000 to provide engineering services to assist in selection and implementation of an Automatic Vehicle Location (AVL) system for Modesto Area Express (MAX), and

WHEREAS, URS has completed the Request for Proposals (RFP) for this project, which is the major work product for the agreement, and

WHEREAS, the complexity of the project has required additional tasks to be undertaken than originally anticipated in the Agreement's Scope of Work, and

WHEREAS, an amendment of \$15,000 to the URS agreement to complete the engineering services is needed to finish the AVL project, and

WHEREAS, funds are budgeted in Account 6510-165-1678-5980 for this amendment, and

WHEREAS, on June 13, 2005 the Economic Development Committee (EDC) approved the staff recommendation to amend the URS agreement, and

WHEREAS, by an agenda report to the City Council dated June 16, 2005, from the Public Works Director, City staff recommended to the Council that it approve an amendment to the URS agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amendment to the URS agreement in the amount of \$15,000 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the 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 5<sup>th</sup> day of July 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-348**

**A RESOLUTION APPROVING THE SOLICITATION OF A REQUEST FOR PROPOSALS (RFP) TO FURNISH AND INSTALL AN AUTOMATIC VEHICLE LOCATION (AVL) SYSTEM FOR THE MODESTO AREA EXPRESS (MAX) BUS SERVICE AND CONSOLIDATING FUNDS FOR THE PROJECT INTO ONE BUDGET ACCOUNT**

WHEREAS, a major goal for public transit is to make travel safer and more efficient, while increasing passenger satisfaction, and

WHEREAS, Automatic Vehicle Location (AVL) systems have proved to be cost-effective in helping transit managers achieve this goal, and

WHEREAS, the City's budget includes \$780,889 for the procurement of an AVL system for the Modesto Area Express (MAX) bus service, and

WHEREAS, the project currently totals \$780,866 and funding is available from the following sources:

Congestion Mitigation Air Quality (CMAQ)	\$359,313
Federal Transit Administration (FTA)	\$300,000
Local Transportation Funds (LTF)	\$121,553

, and

WHEREAS, these funds are located in the following budget accounts:

6510-165-A044-6070  
6510-165-F768-6070  
6510-165-1678-5980

, and

WHEREAS, staff has prepared an RFP to solicit proposals to furnish and install the AVL system for the City, and

WHEREAS, staff wishes to consolidate funding for the project into one account to simplify accounting, and



WHEREAS, on June 13, 2005 the Economic Development Committee (EDC) approved the staff recommendation to solicit proposals for furnishing and installing the AVL system, and

WHEREAS, by an agenda report to the City Council dated June 16, 2005, from the Public Works Director, City staff recommended to the Council that it approve solicitation of proposals for furnishing and installing the AVL system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of proposals from qualified firms to furnish and install an Automatic Vehicle Location (AVL) system for the Modesto Area Express (MAX) bus service.

BE IT FURTHER RESOLVED that the FY06 budget is amended to close 6510-165-F768 and return available funds to the fund balance and reallocate \$404,888 to CIP Project 6510-165-A044.

BE IT FURTHER RESOLVED that the FY06 budget is amended to move \$75,000 from operating organization 6510-165-1678 to 6510-165-A044.

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 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-349**

**A RESOLUTION ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE  
DECLARATION NO. EA/PR&N 2004-02 (SCH # 2005012009) FOR THE  
FOLLOWING PROJECT COVERED BY A MASTER ENVIRONMENTAL  
IMPACT REPORT (SCH NO. 1999082041): SUTTON COMMUNITY PARK**

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified an update to the Final Master Environmental Impact Report ("Master EIR") (SCH No 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the Parks, Recreation and Neighborhoods Department, by Initial Study/Mitigated Negative Declaration EA/PR&N No. 2004-02, (SCH # 2005012009) dated December 2004, reviewed the proposed Project pursuant to Section 21157.1 of the Public Resources Code to analyze whether the proposed project is within the scope of the Master Environmental Impact Report, and

WHEREAS, Section 21080(c)(2) allows the adoption of an Initial Study/Mitigated Negative Declaration if the lead agency, after reviewing and considering the entire record before the agency, identifies potentially significant effects on the environment, but (a) revisions in the Project plans or proposals made by, or agreed to by, the applicant before the Mitigated Negative Declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur; and (b) 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, and

WHEREAS, the City of Modesto, the lead agency, after reviewing and considering the Master EIR, the Initial Study/Mitigated Negative Declaration and the

entire record before it identified potentially significant effects on the environment, but (a) revisions in the Project plans agreed to by the City before the proposed Initial Study/Mitigated Negative Declaration was released for public review would avoid or mitigate the effects to a point where clearly no significant effect on the environment would occur; and (b) there was 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 and determined that it would be appropriate to prepare a Mitigated Negative Declaration for the Project, and

WHEREAS, the City of Modesto prepared, circulated and posted, pursuant to Sections 15070 and 15105 of the CEQA Guidelines, an Initial Study/Draft Mitigated Negative Declaration No. EA/PR&N 2004-02(SCH # 2005012009) dated December 2004, (“IS/MND”) and

WHEREAS, the IS/MND was released for public review and comment for the required 30-day period beginning on January 7, 2005, and ending on February 7, 2005, and

WHEREAS, comments submitted in response to the proposed IS/MND are included in the “Findings approving a Mitigated Negative Declaration and Adopting Mitigation Measures as Performance Standards and Design Criterion for Sutton Community Park”, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference, and

WHEREAS, on July 5, 2005, the City Council reviewed and considered the IS/MND for the proposed development and construction of Sutton Community Park Project, together with all comments received during the public review and circulation period and responses thereto, and

WHEREAS, on July 5, 2005, concurrently with this resolution, the City Council considered approving the proposed Sutton Community Park Master Plan and Design Development Report contained therein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Draft Mitigated Negative Declaration No. EA/PR&N 2004-02 (SCH # 2005012009) (“IS/ Draft MND”) for the proposed Project, a copy of which is on file in the Parks, Recreation and Neighborhoods Department, together with all comments received during the public review and circulation period included in the “Findings approving a Draft Mitigated Negative Declaration and Adopting Mitigation Measures as Performance Standards and Design Criterion for Sutton Community Park, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference, and any oral comments received at the public hearing, and based on the substantial evidence included in said IS/MND makes the following findings:

1. The Initial Study prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional significant environmental effects that were not analyzed in the Master EIR. These additional significant effects are potential impacts to Aesthetics, Air Quality, Cultural resources, Hydrology and Hazardous Materials.
2. Based on the above-referenced Initial Study/Draft Mitigated Negative Declaration, feasible mitigation measures were incorporated into the Project and agreed to by the City in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, Council finds that the IS/MND should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed Sutton Community Park Master Plan, Design Development Report, and subsequent park and road construction.
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. As part of the adoption of the IS/MND, the City Council hereby adopts the Findings as set forth in Exhibit 1 and determines that the Findings and the IS/MND reflect the City’s independent judgment.
5. As required by CEQA Section 21081.6 et. Seq., a Mitigation Monitoring Program will be adopted by incorporating the Mitigation Measures into the project plan (CEQA Section 21081.6(b)).

6. The cumulative impacts of this project are consistent with those set forth in the General Plan Master EIR for the Modesto Urban Area General Plan. This proposed project consists of constructing a community park on a 22-acre City-owned vacant parcel in southeast Modesto. Integration of a municipal services facility into an existing park is consistent with specific language in Chapter 5, Section G of the City of Modesto's General Plan, and therefore the project would be consistent with build-out scenarios examined by the Urban Area General Plan Master EIR. The City's Parks, Recreation and Neighborhoods, Public Works, and Community Development Departments have determined that the impacts from this project with mitigation applied will achieve the level of service consistent with the Modesto Urban Area General Plan and General Plan Master EIR. As such, this project would generate no additional cumulative impacts that were not previously addressed in the General Plan Master EIR. All appropriate mitigation measures from the General Plan Master EIR have been incorporated into the project, and no further evaluation of cumulative impacts is required since this project generated no significant cumulative impact.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that, based on the above findings, the City of Modesto hereby adopts the Initial Study/Mitigated Negative Declaration No. EA/PR&N 2004-02 (SCH # 2005012009) for the proposed development and construction of the Sutton Community Park Project by the City of Modesto and hereby designates the Parks Planning and Development Services Division of the Parks, Recreation and Neighborhoods Department as the custodian of the documents or other material which constitute the record of proceedings upon which this decision is based, and specifies the Department of Parks, Recreation and Neighborhoods, 1010 Tenth Street, Suite 4400, Modesto, California, as the location of said documents.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Section 21081.6 of the Public Resources Code, a Mitigation Monitoring and Reporting Program is hereby adopted by incorporating the mitigation measures into the Project plan as set forth in Exhibit 2 attached hereto and incorporated herein by reference.

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 with the County Clerk's Office within five (5) working days of the date of this determination, 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 7<sup>th</sup> day of July 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-350**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND  
MASTER PLAN INCLUDED THEREIN FOR SUTTON COMMUNITY PARK**

WHEREAS, the City of Modesto currently owns the approximately 22-acre Sutton Community Park site immediately to the south of Johansen High School, to the east of Claus Road and to the west of Norseman Drive in the Johansen Comprehensive Planning District, and

WHEREAS the HLA Group has provided a Design Development Report and Master Plan included therein for Sutton Community 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, the Safety and Communities Committee met on January 3, 2005, and recommended that City Council approve a Master Plan and Design Development Report for Sutton Community Park, and

WHEREAS, by an agenda report dated June 10, 2005, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Sutton Community Park Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, the Sutton Community Park Design Development Report dated February 5, 2005, is within the scope of the Modesto Urban Area General Plan Master Environmental Impact Report (SCH #1999082041), and



WHEREAS, on July 5, 2005, concurrent with this resolution, the Modesto City Council adopted Resolution No.349, adopting a Mitigated Negative Declaration for Sutton Community Park (SCH # 2005012009),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Sutton Community Park Design Development Report is complete and adequate, and it hereby approves the Sutton Community 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 5<sup>th</sup> day of July 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-351**

**A RESOLUTION APPROVING THREE (3) AGREEMENTS BETWEEN THE CITY OF MODESTO AND RED ROCK RANCH, LTD. (APN: 046-007-021) AND ALVIN & WILLIAM LUCHESSA (APN: 046-002-001; 046-007-037) AT THE INTERSECTIONS OF PELANDALE AVENUE; TULLY ROAD AND CARVER ROAD FOR THE PELANDALE SIGNALIZATION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENTS**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Red Rock Ranch, Ltd. (APN: 046-007-021) and Alvin & William Luchessa (APN: 046-002-001; 046-007-037) for acquisition of a portion of the properties at the intersection of Pelandale Ave, Carver Rd and Tully Rd for the Pelandale Signalization Project, and

WHEREAS, said real properties need to be acquired for this signalization project, and

WHEREAS, an agreement is needed for the acquisition of each parcel of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves three (3) agreements between City of Modesto and Red Rock Ranch, Ltd. (APN: 046-007-021) and Alvin & William Luchessa (APN: 046-002-001; 046-007-037) to purchase the necessary real properties for the Pelandale Signalization Project in the total amount of \$386,475.

BE IT FURTHER RESOLVED that the execution of said Agreements 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 12<sup>th</sup> day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-352**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN  
ACCEPTANCE FORM FOR GRANT DEEDS FOR THE ACQUISITION OF  
PORTIONS OF PROPERTIES OWNED BY RED ROCK RANCH, LTD. (APN:  
046-007-021) AND ALVIN & WILLIAM LUCHESSA (APN: 046-002-001; 046-007-  
037) BY THE CITY OF MODESTO AT THE INTERSECTIONS OF  
PELANDALE AVENUE; CARVER ROAD AND TULLY ROAD FOR THE  
PELANDALE SIGNALIZATION 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 from Red Rock Ranch, Ltd. (APN: 046-007-021) and Alvin & William Luchessa (APN: 046-002-001; 046-007-037) at the intersections of Pelandale Ave, Carver Rd and Tully Rd for the Pelandale Signalization Project.

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 Grant Deeds for the acquisition of portions of the properties owned by Red Rock Ranch, Ltd. (APN: 046-007-021) and Alvin & William Luchessa (APN: 046-002-001; 046-007-037) at the intersection of Pelandale Ave, Carver Rd and Tully Rd for the Pelandale Signalization 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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-353**

**A RESOLUTION APPROVING FIVE (5) AGREEMENTS BETWEEN THE CITY OF MODESTO AND EDWARD FERNANDES (APN: 085-001-044); LEONARD RORABAUGH (APN: 083-004-008); WILLIAM HUANG, ET AL (APN: 085-001-042); BIDDLE/LAVERTY (APN: 085-001-032) AND KENNETH MOODY (APN: 084-002-041) FOR THE SYLVAN-ROSELLE ROUNDABOUT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Edward Fernandes (APN: 085-001-044); Leonard Rorabaugh (APN: 083-004-008); William Huang, et al (APN: 085-001-042); Biddle/Laverty (APN: 085-001-032) and Kenneth Moody (APN: 084-002-041) to purchase the necessary real properties for the Sylvan-Roselle Roundabout Project, and

WHEREAS, said real properties need to be acquired for this expansion project, and

WHEREAS, an agreement is needed for the acquisition of each parcel of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that five (5) agreements between City of Modesto and Edward Fernandes (APN: 085-001-044); Leonard Rorabaugh (APN: 083-004-008); William Huang, et al (APN: 085-001-042); Biddle/Laverty (APN: 085-001-032) and Kenneth Moody (APN: 084-002-041) to purchase the necessary real properties for the Sylvan-Roselle Roundabout Project in the total amount of \$337,360 are hereby approved.

BE IT FURTHER RESOLVED that the execution of said Agreements 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 12<sup>th</sup> day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

Approved as to Form:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-354**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN  
ACCEPTANCE FORM FOR GRANT DEEDS FOR THE ACQUISITION OF  
PROPERTIES OWNED BY EDWARD FERNANDES (APN: 085-001-044);  
LEONARD RORABAUGH (APN: 083-004-008); WILLIAM HUANG, ET AL  
(APN: 085-001-042); BIDDLE/LAVERTY (APN: 085-001-032) AND KENNETH  
MOODY (APN: 084-002-041) FOR THE SYLVAN-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 from Edward Fernandes (APN: 085-001-044); Leonard Rorabaugh (APN: 083-004-008); William Huang, et al (APN: 085-001-042); Biddle/Laverty (APN: 085-001-032) and Kenneth Moody (APN: 084-002-041) for the Sylvan-Roselle Roundabout Project.

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 a Grant Deed for the acquisition of portions of the properties owned by Edward Fernandes (APN: 085-001-044); Leonard Rorabaugh (APN: 083-004-008); William Huang, et al (APN: 085-001-042); Biddle/Laverty (APN: 085-001-032) and Kenneth Moody (APN: 084-002-041) for the Sylvan-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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-355**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF NINETEEN (19) MOTORCYCLE HELMET RADIO COMMUNICATION KITS, CATEGORIZED IN THREE (3) EQUIPMENT GROUPS, TO THE FOLLOWING COMPANIES, GROUP 1 – PVP COMMUNICATIONS, INC., TORRANCE, CA, FOR \$28,183.33, GROUP 2 – TEN-FOUR COMMUNICATIONS, MODESTO, CA, FOR \$16,229.60, AND GROUP 3 – DELTA WIRELESS, INC., STOCKTON, CA, FOR \$710.37, FOR A TOTAL PRICE OF \$45,124.30**

WHEREAS, in 2002, the Police Department, Traffic Unit, transitioned from using Motorola mounted radios on their police motorcycles to using a “stand-alone” portable radio system, due to frequent repairs on the older mounted radios, which created excessive downtime for the motorcycles, and

WHEREAS, the stand-alone portable radio system consists of a Motorola HT1000 radio attached to a set of Set-Com Super Mic ear speakers, and

WHEREAS, the ear speakers are mounted inside the officer’s motorcycle helmet, and relay to a push-to-talk switch on the motorcycle, which receives and transmits calls to dispatch and other officers, and

WHEREAS, traffic officers began experiencing problems in the clarity of the reception coming from the ear speakers, and

WHEREAS, a few of the portable radio systems were brought to Set-Com for analysis, and

WHEREAS, Set-Com acknowledged there seemed to be an unusual amount of distortion in the sound coming from the ear speakers, and

WHEREAS, Set-Com gave the Police Department six (6) new sets of ear speakers to test, and

WHEREAS, these speakers were installed in the motorcycle helmets and tested, and the results were the same, distorted sound, and

WHEREAS, the Police Department contacted Set-Com several times trying to remedy the clarity problems, but was met with very slow responses, and no corrective action taken from the vendor, and

WHEREAS, the Police Department then sought the help from a local communications company, which examined the Set-Com system and discovered that the distorted sound was due from an "impedance mismatch", caused by the Set-Com Super Mic speakers, and

WHEREAS, in order to correct the problem the Super Mic system would have to be dismantled and rewired, and

WHEREAS, the Police Department determined that this was not a cost effective option, and

WHEREAS, the Police Department polled the law enforcement community and found many local law enforcement agencies using portable radio equipment produced by a company named PVP Communications, Inc., located in Torrance, CA, and

WHEREAS, the Police Department contacted PVP Communications, Inc. to inquire about the possibility of testing their equipment, and

WHEREAS, PVP Communications, Inc. provided the Police Department with sample equipment to test of the newest technology, "Blue-Tooth" wireless, which is proximity based, and

WHEREAS, the system senses when an officer is on his/her motorcycle, in proximity to the radio, and automatically switches to the portable radio when the officer walks away from the motorcycle, and

WHEREAS, the Blue-Tooth wireless system links to a Kenwood 90 series radio, and

WHEREAS, the Kenwood radio is more weather resistant than the Motorola HT1000 currently in use,

WHEREAS, the Kenwood is easier to repair than the Motorola, which in turn reduces the overall repair costs, and

WHEREAS, the Police Department contacted several law enforcement agencies using the Kenwood radio on their police motorcycles and found no reports of weather related problems, and

WHEREAS, the Police Department thoroughly tested the Blue-Tooth system with the Kenwood radio and is very pleased with the overall results, and

WHEREAS, motorcycle officers can clearly hear themselves speak through their helmet speakers when communicating to dispatch and other officers, and

WHEREAS, because of the successful test results from the new "Blue-Tooth" wireless technology, providing the motorcycle officers with reliable and dependable transmission quality, and due to the inability of Set-Com to remedy the quality problems of their equipment, the Police Department recommended discontinuing the use of all Set-Com systems and converting all of their motorcycles over to the Blue-Tooth wireless system, and

WHEREAS, on June 7, 2005, Council approved Resolution No. 2005-289, authorizing the Purchasing Supervisor to formally solicit bids for the purchase of nineteen (19) motorcycle helmet radio communication kits, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0405-37, for the purchase of nineteen (19) motorcycle helmet radio communication kits to fifteen (15) companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, of the fifteen (15) companies solicited, five (5) companies chose to respond, and

WHEREAS, bid language categorized the communication equipment into three (3) groups, Group 1 – helmet-transmit kits, Group 2 – radio equipment, and Group 3 – mounting equipment. This allowed the bidders the opportunity to choose the category they wished to bid on, and in turn, provided the City with the best overall price possible, and

WHEREAS, based on being the lowest responsive and responsible bidders, City staff recommends the award of Bid No. 0405-37 and contracts for the purchase of nineteen (19) motorcycle helmet radio communication kits to the following companies, Group 1 – PVP Communications, Inc., Torrance, CA, for \$28,183.33, Group 2 – Ten-Four Communications, Modesto, CA, for \$16,229.60, and Group 3 – Delta Wireless, Inc., Stockton, CA, for \$710.37, for a total price of \$45,124.30.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-37 and contracts for the purchase of nineteen (19) motorcycle helmet radio communication kits to the following companies, Group 1 – PVP

Communications, Inc., Torrance, CA, for \$28, 183.33, Group 2 – Ten-Four Communications, Modesto, CA, for \$16,229.60, and Group 3 – Delta Wireless, Inc., Stockton, CA, for \$710.37, for a total price of \$45,124.30.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for the purchase of nineteen (19) motorcycle helmet radio communication kits to the following companies, Group 1 – PVP Communications, Inc., Torrance, CA, for \$28,183.33, Group 2 – Ten-Four Communications, Modesto, CA, for \$16,229.60, and Group 3 – Delta Wireless, Inc., Stockton, CA, for \$710.37, for a total price of \$45,124.30.

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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-356**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR CHLORINE WEIGHING SYSTEM TO FORCE FLOW, INC. OF  
CONCORD, CA. IN THE APPROXIMATE AMOUNT OF \$64,537.38**

WHEREAS, the Operations and Maintenance Department-Water Quality Control Division has requested the purchase of a chlorine weighing system for the Secondary Wastewater Treatment Facility, located at 7007 Jennings Road, Modesto, CA, and

WHEREAS, Resolution 2005-122A authorized the Purchasing Supervisor to solicit formal Request for Bids for (RFB) for a chlorine weighing system, and

WHEREAS, currently staff does not have the ability to accurately measure the amount of chlorine available; it is possible the tanks could become empty, therefore, not dispensing the necessary required amount of chlorine into the water, and

WHEREAS, chlorine is used as a disinfectant for treating wastewater released into the San Joaquin River, and

WHEREAS, without adequate chlorine, the water to be discharged may not be disinfected and, therefore, the system meters would respond by initiating an automatic failsafe and abruptly stop river discharge, and

WHEREAS, startup after a failsafe shutdown is complex and as compared to continued river discharge without interruption, inefficient, and

WHEREAS, in order to ensure that tanks do not empty completely, tanks are currently replaced when staff believes there may not still be chlorine available, and

WHEREAS, installing a chlorine weighing system will allow staff to know exactly when tanks need to be replaced, thereby allowing staff to plan ahead for changing the tanks, as well as better utilization of chlorine supplies, and

WHEREAS, in addition, the weighing system would also verify that the amount of product delivered is the same as that being invoiced, and

WHEREAS, the Modesto Municipal Code, MMC Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000 for materials, equipment, or contractual services to be formally bid. 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)). The chlorine weighing system received said approval with Resolution No. 2005-122A. This award of bid and contract will conform to code, and

WHEREAS, the Purchasing Division solicited formal bids for a chlorine weighing system on Request for Bid (RFB) 0405-18, and

WHEREAS, out of four (4) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, Force Flow, Inc. of Concord, CA. is deemed to be the lowest responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract to Force Flow of Concord, CA. in the approximate amount of \$64,537.38.

BE IT FURTHER RESOLVES that the Purchasing Supervisor is hereby authorized to issue a purchase order to Force Flow Inc, in the approximate amount of \$64,537.38.



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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-357**

**ADOPT A RESOLUTION AUTHORIZING THE PURCHASE OF LIGHT  
EMITTING DIODES (LED) TRAFFIC SIGNAL MODULES UNDER THE  
COMPETITIVELY BID COUNTY OF SACRAMENTO, LED CONTRACT  
FROM JAM SERVICES OF LIVERMORE, CA. FOR A TOTAL ESTIMATED  
COST OF \$107,205.56**

WHEREAS, the Public Works Department-Electrical Division has requested the purchase of LED traffic signal modules, and

WHEREAS, LED traffic signal modules replace the incandescent lamp needed for the illumination of traffic signal indication, and

WHEREAS, these LED traffic signal modules are needed to meet the mandate of the California Energy Commission Title, which limits use of traffic signal lamps/modules to seventeen (17) watts, and

WHEREAS, these traffic signal modules have a life expectancy of seven (7) years, and

WHEREAS, the LED traffic signal modules are energy efficient and provide a brighter light with significant improvement to traffic safety, and

WHEREAS, the use of LED traffic signal modules will essentially pay for their maintenance with energy savings, and

WHEREAS, purchasing the equipment from Jam Services under the County of Sacramento contract will allow the City to receive the lowest possible price for the LEDs, and

WHEREAS, the estimated total cost of this purchase is \$107,205.56, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding \$50,000 for materials 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 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of purchase order for LED traffic signal modules to Jam Services of Livermore, CA in the approximate amount of \$107,205.56.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for LED traffic signal modules, as set forth 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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-358**

**A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS TO PROVIDE \$933,600 IN HOME FUNDS FOR THE DEVELOPMENT OF A MULTI-FAMILY HOUSING PROJECT IN VILLAGE ONE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME AGREEMENT AND RELATED DOCUMENTS**

WHEREAS, on April 9, 2002, by Resolution No. 2002-172, the City Council authorized staff to solicit Requests for Qualifications for the development of multi-family housing for working citizens in the Village One Specific Plan Area (Village One), and

WHEREAS, on August 23, 2002, the Citizens Housing and Community Development Committee reviewed and approved a sub-committee's recommendation to accept the Housing Authority and its consultant team as the agency to develop an affordable housing development on the Belharbour and Roselle property in Village One, and

WHEREAS, on October 1, 2002, by Resolution No. 2002-489, the City Council approved the Housing Authority and its consultant team as the selected agency to develop an affordable housing development in Village One, and

WHEREAS, also at the October 1, 2002, Council meeting, staff recommended the allocation of up to 80% or \$933,600 of the Fiscal Year 2002-2003 HOME entitlement funds to be used toward construction of the Village One multi-family housing project, and

WHEREAS, the funds will be used by the Housing Authority of Stanislaus County to develop a 20 rental-unit multi-family residential project for low-income families, and

AMENDED FOR CLERICAL ERROR

WHEREAS, the terms of the agreement include: a 30-year amortized loan at a 3% simple interest rate; deferred payments for 30 years; and, certification through the Crime Free Multi Housing Program administered by the Modesto Police Department, and

WHEREAS, the Citizens Housing and Economic Development Committee met on September 24, 2004, and supported the recommendation to allocate these HOME funds to the Housing Authority of Stanislaus County for development of a multi-family housing project in Village One,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a development agreement with the Housing Authority of the County of Stanislaus to provide \$933,600 in HOME funds for the development of a multi-family housing project in Village One.

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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-359**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING BUDGET TO  
ALLOCATE \$933,600 FROM 1170-800-8000-8003, HOME FUND RESERVE, TO  
1170-320-3259-0497, DIRECT LOAN, TO FULLY FUND THE PROPOSED FY05-  
06 HOME FUND ALLOCATION TO THE HOUSING AUTHORITY OF  
STANISLAUS COUNTY FOR DEVELOPMENT OF A MULTI-FAMILY  
HOUSING PROJECT IN VILLAGE ONE**

WHEREAS, on April 9, 2002, by Resolution No. 2002-172, the City Council authorized staff to solicit Requests for Qualifications for the development of multi-family housing for working citizens in the Village One Specific Plan Area (Village One), and

WHEREAS, on August 23, 2002, the Citizens Housing and Community Development Committee reviewed and approved a sub-committee's recommendation to accept the Housing Authority and its consultant team as the agency to develop an affordable housing development on the Belharbour and Roselle property in Village One, and

WHEREAS, on October 1, 2002, by Resolution No. 2002-489, the City Council approved the Housing Authority and its consultant team as the selected agency to develop an affordable housing development in Village One, and

WHEREAS, also at the October 1, 2002, Council meeting, staff recommended the allocation of up to 80% or \$933,600 of the Fiscal Year 2002-2003 HOME entitlement funds to be used toward construction of the Village One multi-family housing project, and

WHEREAS, the funds will be used by the Housing Authority of Stanislaus County to develop a 20 rental-unit multi-family residential project for low-income families, and

**AMENDED FOR CLERICAL ERROR**

WHEREAS, the terms of the agreement include: a 30-year amortized loan at a 3% simple interest rate; deferred payments for 30 years; and, certification through the Crime Free Multi Housing Program administered by the Modesto Police Department, and

WHEREAS, the Citizens Housing and Economic Development Committee met on September 24, 2004, and supported the recommendation to allocate these HOME funds to the Housing Authority of Stanislaus County for development of a multi-family housing project in Village One, and

WHEREAS, these funds are available in the HOME Fund Reserve, 1170-800-8000-8003, and

WHEREAS, in order to make these funds available for this project, funds in the amount of \$933,600 need to be allocated to operating account 1170-320-3259-0497, Direct Loans,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 operating budget to allocate \$933,600 from 1170-800-8000-8003, HOME Fund Reserve, to 1170-320-3259-0497, Direct Loan, to fully fund the proposed FY05-06 HOME Fund allocation.

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.

**AMENDED FOR CLERICAL ERROR**

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 July 2005, 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, Jackman, Keating, Marsh,  
O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-360**

**A RESOLUTION APPROVING A ONE-YEAR LEASE RENEWAL WITH  
STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO)  
FOR THE USE OF A CITY OWNED HOUSE AT 308 LOCUST STREET FOR  
STANCO'S TRANSITIONAL HOUSING PROGRAM, AT THE COST OF \$1.00**

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, 2005, 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 17, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-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.

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 12<sup>th</sup> day of July, 2005 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-361**

**A RESOLUTION APPROVING THE CITY OF MODESTO'S PARKS,  
RECREATION AND NEIGHBORHOODS DEPARTMENT 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 ACT OF 2002 PER  
CAPITA GRANT PROGRAM**

WHEREAS, the people of the State of California have enacted the Per Capita Grant program which provides funds for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto's City Council to certify by resolution the approval of the applicant to apply for the Per Capita Allocation, and

WHEREAS, the City of Modesto is eligible for \$873,000 in Per Capita Grant Program funding, and

WHEREAS, the City of Modesto will enter into a contract with the State of California,

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

1. Approves the filing of an Application for local assistance funds from the Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002; and

2. Certifies that the City of Modesto has or will have sufficient funds to operate and maintain the Project; and

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

4. 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 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 July 2005, 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, Jackman, Keating, Marsh,  
O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-362**

**A RESOLUTION APPROVING THE CITY OF MODESTO TO APPLY FOR \$537,781  
IN GRANT FUNDS UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE  
NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 ROBERTI-  
Z'BERG-HARRIS BLOCK GRANT PROGRAM**

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 which provides funds for the Roberti-Z'berg-Harris Block Grant program for grants to eligible Applicants, and

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

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto's City Council to certify by resolution the approval of the City of Modesto to apply for the Roberti-Z'berg-Harris allocation, and

WHEREAS, the City of Modesto is eligible to apply for \$537,781 in Roberti-Z'berg-Harris Grant Program funding, and

WHEREAS, the City of Modesto will enter into a contract with the State of California for the Project,

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

1. Approves the filing of an application for local assistance funds from the Roberti-Z'berg-Harris Block Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002; and;
2. Certifies that the City of Modesto has or will have sufficient funds to operate and maintain the Project(s); and

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

4. Certifies that the projects conform to the recreation element of the City of Modesto's General Plan, and,

5. Appoints the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the project(s).

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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-363**

**A RESOLUTION AUTHORIZING THE RISK MANAGER BIND EXCESS  
WORKERS' COMPENSATION INSURANCE AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE RENEWAL AGREEMENT FOR THE  
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, renewal of City's excess workers' compensation insurance is due on July 1, 2005, and

WHEREAS, staff has received an initial quote that reflects a rate reduction due to the workers' compensation reforms, and

WHEREAS, the insurance pool anticipates substantial savings which has reduced program rates, and

WHEREAS, based 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 \$185,028,

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 \$185,028 as presented by the City's Broker of Record.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the renewal agreement for excess Workers' Compensation Insurance.

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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-364**

**A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND  
PROPERTY INSURANCE FOR THE CITY OF MODESTO OWNED AND/OR  
OPERATED PROPERTIES AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE RENEWAL AGREEMENT FOR THE INSURANCE**

WHEREAS, Driver Alliant Insurance Services has developed a joint-purchasing group of clients called PEPiP (Public Entity Property Insurance Program) which includes over 5000 public entities in 7 different states, and

WHEREAS, PEPiP'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 01, 2005, and

WHEREAS, staff has received the final renewal quote that provides for a rate increase of approximately 17% for property and boiler & machinery coverage due to an increased valuation of 51% of property value, and

WHEREAS, based upon authorization from Council, staff will bind the insurance coverage through PEPiP, at the cost of \$254,815,

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 \$254,815 as presented by the City's Broker of Record pursuant to Council direction.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the renewal agreement for property and boiler & machinery insurance coverage and pay the quoted premiums.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

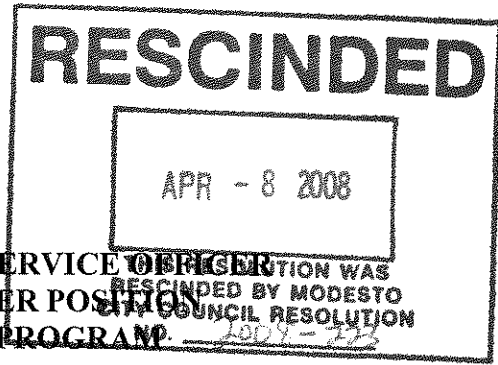
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-365



**A RESOLUTION ALLOCATING A NEW COMMUNITY SERVICE OFFICER POSITION TO THE MODESTO POLICE DEPARTMENT MASTER POSITION ALLOCATION FOR THE FRANCHISE TOWING PROGRAM.**

WHEREAS, the Council of the City of Modesto has made a motion directing the Purchasing Division to issue a Request for Proposals/Applications for a City of Modesto Non-Exclusive Franchise Tow Program, and

WHEREAS, on April 2, 2004, the current non-consensual tow rotation contract between the Police Department and 26 tow companies lapsed, and

WHEREAS, Police Department staff embarked on formulating an improved contract for the City that would provide optimum service, fewer complaints and offset the growing cost of the City's non-consensual towing program, and

WHEREAS, Police Department staff research, investigations, site visits and discussions were initiated with cities that had implemented franchise towing systems, and

WHEREAS, California Vehicle Code Section 12110 allows local agencies to enter into franchise contracts with tow companies to offset the costs for nonconsensual towing, and

WHEREAS, the elements of this program require effective implementation and management, and

WHEREAS, Police management staff proposes that a Community Service Officer conduct and manage all aspects of the contract to insure compliance from the tow companies, and

WHEREAS, two public workshops were held on August 3, 2004, and December 20, 2004, and another workshop will be held on August 18, 2005, to discuss the Franchise Towing Program, and

WHEREAS, at its meeting on March 1, 2004, the Safety and Communities Committee unanimously endorsed the initial concept of an RFP/Franchise Tow Contract system for towing, and

WHEREAS, at its meeting of February 23, 2005, the Finance Committee unanimously endorsed the actions of:

- 1) A motion directing the Purchasing Division to issue a Request for Proposals (RFP)/Application for a City of Modesto Non-Exclusive Franchise Tow Program, and
- 2) Adoption of a resolution, subject to additional revenues collected, authorizing the addition of one Modesto Community Service Officer to the Police Department's Position Allocation to conduct and manage all aspects of the contracts for the non-exclusive Franchise Tow Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the Position Allocation for the Modesto Police Department be increased by one Community Service Officer, subject to additional revenues collected.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary allocation increase.

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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-366**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO WOOD RODGERS, INC., FOR \$644,323 TO COMPLETE DESIGN SERVICES FOR A 6-LANE INTERIM FACILITY ON PELANDALE AVENUE BETWEEN DALE ROAD AND MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE 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 titled, "Pelendale Widening to 4 lanes –Dale to McHenry," and a future project for "Pelendale Widening to 6 lanes - Dale to McHenry" and

WHEREAS, the Finance Committee met on January 24, 2005, and directed staff to investigate costs and funding for a single project to widen Pelendale to 6 lanes from Dale to McHenry and move this project forward, and

WHEREAS, staff estimates the cost to widen Pelendale to 6 lanes, from Dale to McHenry, at \$9,369,000, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, a Request for Proposals was sent to nine qualified engineering firms (including four local companies), of which seven responded, and

WHEREAS, the proposals were reviewed for compliance with the project's scope of work, and interviews were conducted with the seven firms, and

WHEREAS, Wood Rodgers was deemed most qualified and was selected for engineering design services for the Pelandale Widening to 6 lanes - Dale to McHenry project, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with Wood Rodgers to complete the Design Services for the Pelandale Widening to 6 lanes - Dale to McHenry in an amount not to exceed \$644,323,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Wood Rodgers to complete the Design Services for the Pelandale Widening to 6 lanes - Dale to McHenry in an amount not to exceed \$644,323.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-367**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO MARK THOMAS AND COMPANY FOR \$178,687 TO COMPLETE DESIGN SERVICES FOR ROADWAY WIDENING AND SIGNAL MODIFICATIONS AT THE INTERSECTION OF PELANDALE AVENUE AND SISK ROAD AND ON THE NORTHBOUND ON-RAMP AT STATE ROUTE 99 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the Economic Development Committee, as part of the 2004/2005 Capital Improvement Program reviewed this project, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled, "Pelandale Sisk to 99 Improve," and

WHEREAS, staff estimates the cost to provide the Pelandale Sisk to 99 Improve, at \$1,240,000, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering design consultant, and

WHEREAS, a Request for Proposals was sent to nine qualified engineering firms (including four local companies), of which seven responded, and

WHEREAS, the proposals were reviewed for compliance with the project's scope of work, and interviews were conducted with the seven firms, and

WHEREAS, Mark Thomas and Company was deemed most qualified and was selected for engineering design services for the Pelandale Sisk to 99 Improvement project, and



WHEREAS, the Public Works Director has recommended accepting the proposed contract with Mark Thomas and Company to complete the Design Services for the Pelandale Sisk to 99 Improvement Project in an amount not to exceed \$178,687,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Mark Thomas and Company to complete the Design Services for the Pelandale Sisk to 99 Improvement Project in an amount not to exceed \$178,687,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-368**

**A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE  
AGREEMENT WITH LARRY WALKER ASSOCIATES FOR ADDITIONAL  
WORK IN THE DEVELOPMENT OF THE POLLUTION PREVENTION PLANS  
FOR THE NPDES PERMIT IN THE AMOUNT OF \$13,917 AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE  
AMENDMENT ON BEHALF OF THE CITY**

WHEREAS, the City's Wastewater Treatment Facilities operate under National Pollutant Discharge Elimination System (NPDES) permits issued by the Regional Water Quality Control Board (Regional Board), and

WHEREAS, the River Discharge Permit requires the City to conduct numerous studies, establish comprehensive source control measures on various constituents, and develop pollution prevention plans, and

WHEREAS, on June 5, 2001, Council awarded Larry Walker Associates a contract to conduct special studies, as required by the Regional Water Quality Control Board (Regional Board) issued NPDES permit, and

WHEREAS, these studies have been completed and significant amounts of data have been gathered, and

WHEREAS, on January 6, 2004, Council awarded a new contract to Larry Walker Associates in the amount of \$174,298 to develop the pollution prevention plan from the special studies they had previously conducted, and

WHEREAS, there were additional costs for this contract in the amount of \$13,917 for additional work that needed to be performed in a short duration of time; some of which coincided with discharge to the river, and City staff requests approval of the First Amendment to the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Agreement with Larry Walker Associates for additional work on the Pollution Prevention Plans for the NPDES Permit in the amount of \$13,917; bringing the total amount of the new contract to \$188,215.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said First Amendment to 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 July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-369

A RESOLUTION ACCEPTING THE WORK BY KROEKER, INC., FOR THE  
"DEMOLITION OF BUILDINGS ON 8<sup>TH</sup> STREET" PROJECT AS COMPLETE,  
AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION,  
AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$110,419  
PER THE CONTRACT. TOTAL PROJECT EXPENDITURES TO DATE ARE  
\$2,665,092

WHEREAS, a report has been filed by the Public Works Director that the project  
titled "Demolition of Buildings on 8<sup>th</sup> Street" has been completed by Kroeker, Inc., in  
accordance with the contract agreement dated June 22, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Demolition of  
Buildings on 8<sup>th</sup> Street" project be hereby accepted from said contractor, Kroeker, Inc.,  
that the Notice of Completion be filed with the Recorder of Stanislaus County and that  
payment of amounts due totaling \$110,419 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 12th day of July, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-370

A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
"PLAY EQUIPMENT UPGRADES FOR MODESTO PLAYGROUNDS" AND  
AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE  
DATE

WHEREAS, the bid received for Play Equipment Upgrades for Modesto  
Playgrounds was opened at 11:00 a.m. on June 14, 2005, 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 consultant architect's estimate. 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 "Play Equipment Upgrades for Modesto Playgrounds,"  
opened in the office of the City Clerk on June 14, 2005, 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 12th day of July, 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

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

*Jean Zahr*  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_

*Michael D. Milich*  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-371**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE INTERSECTION IMPROVEMENTS PROJECT, ACCEPTING THE BID AND APPROVING A \$3,395,977.80 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "PELANDALE INTERSECTION IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the Pelandale Intersection Improvements Project warrants traffic signals at intersections along Pelandale Avenue at Prescott, Carver, and Tully Roads to decrease delays and improve traffic flow, and

WHEREAS, City staff has reviewed the project plans and specifications and recommends approval to the City Council, and

WHEREAS, the sole bid received for "Pelandale Intersection Improvements" was opened at 11:00 a.m. on June 21, 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 \$3,395,977.80 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of George Reed, Inc, in the amount of \$3,395,977.80, and hereby awards George Reed, Inc., the contract titled "Pelandale Intersection Improvements."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-372**

**A RESOLUTION TO AMEND THE FY 2006 CIP BUDGET: A) TO REDUCE DEVELOPER REIMBURSEMENT PROJECT 1410-430-H476 BY \$400,000 AND RETURN THOSE FUNDS TO FUND BALANCE TO BE REALLOCATED TO 1410-430-N496; B) TO REDUCE CLARATINA: COFFEE TO OAKDALE PROJECT 1410-430-Q210 BY \$1,108,495 AND RETURN THOSE FUNDS TO FUND BALANCE TO BE REALLOCATED TO 1410-430-N496; C) TO ALLOCATE AN ADDITIONAL \$500,000 FROM CFF FUND RESERVE 1410-800-8000-8003 TO PELANDALE IMPROVEMENT PROJECT 1410-430-N496; D) TO CLOSE PRESCOTT IMPROVEMENTS PROJECT 2680-020-Q319 AND RETURN REMAINING FUNDS TO PELANDALE/SNYDER CFD FUND BALANCE TO BE REALLOCATED AND TRANSFERRED TO PELANDALE INTERSECTION IMPROVEMENTS 1410-430-N496**

WHEREAS, the sole bid received for the Pelandale Intersection Improvements project was opened at 11:00 a.m., on June 21, 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 \$3,395,977.80 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc., and

WHEREAS, the Public Works Director has determined that \$1,312,900 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 Fund 1410 fund balance for the appropriation of this project within the FY 2005-2006 Capital Improvement Program Budget to fully fund MY-1410-430-N496,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY2005-2006 Capital Improvement Budget a) to reduce Developer Reimbursement Project 1410-430-H476 by \$400,000 and return those funds to Fund Balance to be reallocated to 1410-430-N496; b) to reduce Claratina:



Coffee to Oakdale Project 1410-430-Q210 by \$1,108,495 and return those funds to Fund Balance to be reallocated to 1410-430-N496; c) to allocate an additional \$500,000 from CFF Fund Reserve 1410-800-8000-8003 to Pelandale Intersection Improvements Project 1410-430-N496; d) to close Prescott Improvements Project 2680-020-Q319 and return remaining funds to Pelandale/Snyder CFD Fund Balance to be reallocated and transferred to Pelandale Intersection Improvements 1410-430-N496, all to cover the increase in expenditure appropriation.

BE IT FURTHER RESOLVED that the acting Finance Director, or her 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 12th day of July, 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-373**

**A RESOLUTION ADOPTING AN INITIAL STUDY FOR THE PELANDALE  
INTERSECTION IMPROVEMENTS AND PRESCOTT / SNYDER TRAFFIC  
SIGNAL E.A./E.T. NO. 2003-21 IN THE CITY OF MODESTO, AND ADOPTING  
A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED  
AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL  
REVIEW DOCUMENT (ATTACHMENT D)**

WHEREAS, on March 4, 2003, the City Council of the City of Modesto adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

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

WHEREAS, the Public Works Department, by Initial Study, EA/ET 2003-21, reviewed the proposed "Pelandale Intersection Improvements and Prescott / Snyder Traffic Signal," which determined that the proposed project is within the scope of the project covered by the Master EIR and that the project will have no additional significant effect on the environment that was not identified in the Master EIR; and further, that no new or additional mitigation measures or alternatives may be required, and

WHEREAS, on May 15, 2005, the Public Works Department caused to be published notification of the determination conferred in Initial Study 2003-21, pursuant to Public Resources Code Section 21092, and

WHEREAS, said matter was considered by the City Council at a duly noticed meeting held on the 12th day of July 2005, 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 EA 2003-21 prepared for the proposed "Pelandale Intersection Improvements and Prescott / Snyder Traffic Signal" project, a copy of which is attached hereto as Attachment "D", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The proposed "Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal" are within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the "Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal" that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed "Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal" that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the "Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal" that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR would apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**ATTACHMENT "D"**

**INITIAL STUDY**

**EA/ET 2003-21**

**City of Modesto  
Initial Study**

**PELANDALE INTERSECTION IMPROVEMENTS AND  
PRESCOTT / SNYDER TRAFFIC SIGNAL**

**E.A./E.T. No: 2003-21**

**I. PURPOSE**

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

**II. PROJECT DESCRIPTION**

A. Project title:

Pelandale Intersection Improvements & Prescott / Snyder Traffic Signal

B. Lead agency name and address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact person, address and phone number:

Dean Phillips, Engineering and Transportation Department, (209) 577-5260

D. Project Location:

Pelandale Avenue – Prescott to Tully, and the Prescott / Snyder intersection.

E. Project sponsor:

City of Modesto, P.O. Box 642, Modesto, CA. 95353

F. General Plan Designation:

Village Residential  
Mixed Use  
Business Park

G. Zoning:

Specific Plan (SP-O)  
A210 – Minimum 10-Acre Agriculture

H. Description of Proposed Project:

This is an application to install traffic signals at the following intersections:

- Pelandale/Tully
- Pelandale/Carver
- Pelandale/Prescott
- Prescott/Snyder

In addition to the traffic signal installation, the roadway will be widened approaching each intersection to accommodate designated right and left turn lanes (See Exhibit "A").

The ultimate design of the roadway would follow Standard Detail No. 363 of the City of Modesto's Standard Specifications for a Class B & C 6-lane Landscaped Expressway at a Minor Arterial for the Pelandale/Tully and Pelandale/Prescott intersections. The Pelandale/Carver and Prescott/Snyder intersections will follow Standard Detail No. 371 for a Class B & C 6-lane Landscaped Expressway at a Minor Collector (Shown also on Exhibit "A").

I. Surrounding land uses:

**Pelandale/Tully:** The project is bounded on the North by an agricultural area (almond trees) within Stanislaus County. The project is also bounded on the Southeast by the Big Valley Grace Community Church which is currently Mixed Use zoning. The Southwest quadrant is PD 534 which has higher density residential dwellings.

**Pelandale/Carver:** The project is bounded on the Northeast by an agricultural area (alfalfa) within Stanislaus County. The project is also bounded on the remaining three quadrants by single-family residential houses which are within the City limits. The Southwest corner of the intersection will have Fire Station No. 11, which is scheduled for construction in 2004.

**Pelandale/Prescott:** The project is bounded on the North by single-family residential houses. The Southeast quadrant is scheduled for a commercial development, and the Southwest quadrant is a storm drainage basin.

**Prescott/Snyder:** The project is bounded on all quadrants except the Northeast by single-family residential houses. The Northeast quadrant is scheduled to have a commercial development.

J. Other public agencies whose approval is required:

Stanislaus County

**III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR**

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

**A. Traffic and Circulation**

The Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal project proposes public improvements consistent with the General Plan designation for these sites. The proposed project's traffic signals would be mostly within existing rights-of-way. Limited land acquisition would be required in the east and west ends of the project for public roadway. The ultimate design calls for a Class B 6-lane expressway per the General Plan Program Circulation and Transportation Diagram of Figure V-1. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

**B. Degradation of Air Quality**

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are, therefore, still valid.

**C. Generation of Noise**

Because the proposed use is consistent with the General Plan in land use and intensity, the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. The project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are therefore still valid.



**D. Loss of Productive Agricultural Land**

Portions of this project are located in an agricultural portion of Modesto and Stanislaus County. The project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) are still valid.

**E. Increased Demand for Water Supplies**

The proposed project will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13 are, therefore, still valid.

**F. Increased Demand for Sanitary Sewer Services**

The proposed project will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are therefore still valid.

**G. Loss of Sensitive Wildlife and Plant Habitat**

The project is located within agricultural lands, however it is not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are still valid.

**H. Disturbance of Archaeological and Historic Sites**

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

**I. Drainage, Flooding and Water Quality**

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

**J. Increased Demand for Storm Drainage**

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

**K. Increased Demand for Parks and Open Space**

The proposed intersection improvements and traffic signals will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are therefore still valid.

**L. Increased Demand for Schools**

The proposed intersection improvements and traffic signals will not create any additional demand for schools. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

**M. Increased Demand for Police Services**

Because the project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are therefore still valid.

**N. Increased Demand for Fire Services**

Because the project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are therefore still valid.

**O. Generation of Solid Waste**

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are therefore still valid.

**P. Generation of Hazardous Materials**

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-15) are therefore still valid.

**Q. Landslides and Seismic Activity**

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.

**R. Energy**

This use will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are still valid.

**IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS**

- A. The proposed Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal are within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.

- B. No additional significant environmental effects will occur as a result of the Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the Pelandale Intersection Improvements and Prescott/Snyder Traffic Signal that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR would apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Dean J. Phillips,  
Sr. Civil Engineer

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-374**

**A RESOLUTION AWARDED A \$121,596 AGREEMENT TO RMC WATER  
AND ENVIRONMENT, INC., (RMC), OF WALNUT CREEK, CA, FOR  
PROFESSIONAL SERVICES TO PREPARE THE 2005 URBAN WATER  
MANAGEMENT PLAN AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, the California Water Code requires that all urban water suppliers 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, must prepare an Urban Water Management Plan (UWMP) and update it at least every five years, and

WHEREAS, the City of Modesto, pursuant to the Water Code, filed Urban Water Management Plans for 1985, 1990, 1995, and 2000, and

WHEREAS, the City of Modesto's current UWMP has served its intended purpose of serving as a basis for local and regional water management planning and ensuring 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, a number of legislative updates have occurred in the last five years which make it necessary to update the UWMP, and

WHEREAS, the 2005 UWMP update will need to be submitted to the Department of Water Resources (DWR) by December 31, 2005, and

WHEREAS, City Administrative Directive 3.1 was followed to select a professional engineering consultant, and

WHEREAS, a Request for Proposals was sent to four qualified engineering consulting firms, of which three responded, and

WHEREAS, the proposals were reviewed for compliance with the project's scope of work, and interviews were conducted with the three firms, and

WHEREAS, RMC Water and Environment Inc., (RMC) was deemed most qualified and was selected for engineering consulting services for the 2005 UWMP, and

WHEREAS, the Public Works Director has recommended that RMC be accepted as the most qualified engineering consulting firm and has recommended accepting their proposal, in an amount not to exceed \$121,596,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with RMC for preparation of the UWMP in an amount not to exceed \$121,596.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-375**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERING FOR CHIEF PLANT OPERATOR (CPO) SERVICES EXTENDING THE AGREEMENT THROUGH MAY 2006 AND INCREASING THE AMOUNT FROM “NOT TO EXCEED” \$48,755 TO “NOT TO EXCEED” \$168,155, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY**

WHEREAS, Modesto’s Wastewater Treatment Plant is rated as a Class V facility based upon its design flow of 70 million gallons per day, and

WHEREAS, the state requires that the Chief Plant Operator (CPO) of a Class V plant have a Grade 5 operator on staff, and

WHEREAS, historically, the City has had at least two Grade 5 operators on staff but, due to recent resignations, both of the Grade 5 slots are now vacant and the City was faced with the prospect of not having a Grade 5 operator, and

WHEREAS, as a stopgap measure, staff contracted with Carollo Engineering to provide Grade 5 CPO services, and

WHEREAS, staff has notified the Regional Board of the interim arrangement as is required under our permit, and

WHEREAS, failure to have a licensed Grade 5 operator could expose the City to administrative sanctions, including fines, and

WHEREAS, the original contract with Carollo Engineering was for an amount “not to exceed” \$48,755 and gave the City of Modesto approximately 260 billable hours per the current billing rates; which will provide for CPO services through September 2, 2005, and

WHEREAS, this request is to authorize an extension of the initial contract through May 2006, if needed, and to increase the amount of the contract to an amount “not to exceed” \$168,155, and

WHEREAS, funds are budgeted in Account 6210-480-5213-0235 for these contract services, and

WHEREAS, staff has initiated the recruitment process to fill the vacated Grade 5 positions and the extension of this contract will allow time for recruitment of a Water Quality Control Superintendent and/or Deputy Director with a requirement of Grade 5 Operator certification, and

WHEREAS, due to the shortage of Grade 5 operators throughout the state, it may be difficult to fill these vacancies by the September interim CPO contract expiration,

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 for Chief Plant Operator (CPO) Services extending the agreement through May 2006 and increasing the amount from “not to exceed” \$48,755 to “not to exceed” \$168,155.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Amendment to the 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 12<sup>th</sup> day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-376**

**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. 2005-268 adopted on May 24, 2005, 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 2005-06 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 2005-06 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 2005-06 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 12th day of July 2005, 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, Jackman, Keating, Marsh, O’Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-377**

**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. 2005-269, adopted on May 24, 2005, 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 2005-06 is \$108.39 per acre for commercial property and \$21.33 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 \$108.39 per acre for commercial property and \$21.33 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 2005-06 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 2005-06 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 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-378**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CERTIFYING THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT  
REPORT FOR THE MODESTO REGIONAL WATER TREATMENT PLANT  
PHASE TWO EXPANSION PROJECT AND RELATED DOWNSTREAM  
IMPROVEMENTS (SCH No. 2004022013) IN ACCORDANCE WITH THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of Modesto (the “City”) and the Modesto Irrigation District (“MID”) have been planning for the Phase II expansion of the Modesto Regional Water Treatment Plant (“MRWTP”) and the construction of new water storage tanks, distribution pipelines and associated downstream facilities to improve the delivery capacity of the existing MRWTP (“Project”), and

WHEREAS, in March, 1990, the City and MID certified a Final EIR for the MRWTP and construction of new water storage tanks, distribution pipelines and associated downstream facilities, including the proposed Project which the City and MID are currently planning (SCH No. 89020044) in accordance with the California Environmental Quality Act, Public Resources Section 21000, et seq (“CEQA”), and

WHEREAS, on January 26, 2004, the City of Modesto (the “City”) and the Modesto Irrigation District (“MID”) as co-lead agencies published an Initial Study and a Notice of Preparation (“IS/NOP”) for the proposed Project, and

WHEREAS, based on the information in the Initial Study and because of the additional level of detail known about the project and the potential for changed conditions since the certification of the 1990 Final EIR for the MRWTP, the City and MID determined that a Subsequent Environmental Impact Report (“SEIR”) was required for the proposed Project, and

WHEREAS, the IS/NOP provided notice of the City's and MID's determination, and solicited public input on the proposed scope and content of the SEIR for the proposed Project, and

WHEREAS, on November 8, 2004, the City and MID published and distributed a Draft SEIR for the proposed Project, which was available for public review and comment for a period of 45 days as required by Section 21091 of CEQA, and

WHEREAS, during the 45-day public comment period the City and MID received five letters commenting on the Draft SEIR, and

WHEREAS, the City and MID prepared written responses to all written comments received on the Draft SEIR, said responses being contained in a Final Subsequent Environmental Impact Report ("Final SEIR") for the proposed Project prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final SEIR was published and distributed on June 28, 2005, and consists of the Draft SEIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, said matter was set for a Public Hearing of the City Council to be held on July 12, 2005, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time evidence both oral and documentary was received and considered by the Council, and

WHEREAS, the City Council has received and considered the Final SEIR for the proposed MRWTP Phase II Expansion and the construction of downstream facilities

(SCH No. 2004022013) which analyzes the potential environmental effects of the proposed Project, and

WHEREAS, CEQA requires that, in connection with the certification of a Final SEIR, the decision-making agency make certain written findings,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. The Final SEIR has been completed in compliance with CEQA; and
2. The Final SEIR has been presented to the City Council and the Council has reviewed and analyzed the Final SEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final SEIR; and
3. The Final SEIR represents the independent judgment of the City of Modesto; and
4. The Final SEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft SEIR for the Project and also incorporates information obtained by the City and MID since the Draft SEIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the proposed Project and do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft SEIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft SEIR have been proposed that would lessen significant environmental impacts of the proposed Project. Accordingly, this Council hereby finds and determines that recirculation of the Final SEIR for further public review and comment is not warranted; and
5. The City Council does hereby designate the Deputy Director, Capital Improvement Services for the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the



custodian of documents and record of proceedings on which this decision is based; and

6. The City Council does hereby make the foregoing findings with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting certification of the Final SEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft SEIR and were not certified as part of the Final SEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final SEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Subsequent Environmental Impact Report for the MRWTP Phase II Expansion and related downstream facilities (SCH No. 2004022013), a copy of which is available in 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 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

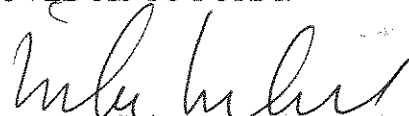
ABSENT: Councilmembers: Mayor Ridenour

ATTEST

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-379**

**A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE “AGREEMENT  
RELATING TO THE ADVANCED FUNDING AND REIMBURSEMENT OF  
COSTS RELATED TO THE (PHASE TWO) EXPANSION OF THE MODESTO  
REGIONAL WATER TREATMENT PLANT”, BETWEEN THE CITY AND THE  
MODESTO IRRIGATION DISTRICT, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AMENDMENT**

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the MRWTP, and

WHEREAS, City and MID agree that the preliminary costs should be included in the project costs to be financed at a later date, and

WHEREAS, MID agrees to initially fund certain costs related to preliminary work for the project, and

WHEREAS, City agrees that MID should be reimbursed for certain costs related to preliminary work for the project, and

WHEREAS, the Council of the City of Modesto adopted Resolution No. 2003-538 approving the Advanced Funding and Reimbursement Agreement with the MID for the reimbursement of costs related to the Phase Two Expansion of the MRWTP

authorizing the City Manager to execute said Agreement at its October 7, 2003, meeting,  
and

WHEREAS, City and MID agree that the preliminary costs shall be shared and reimbursed as summarized in amended Exhibit "A" attached hereto and incorporated herein by this reference, and

WHEREAS, the Council of the City of Modesto adopted Resolution No. 2004-676, approving Amendment No. 1 to the Advanced Funding and Reimbursement Agreement at its December 14, 2004, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 2 to the Agreement Relating to the Advanced Funding and Reimbursement of Costs Related to the (Phase Two) Expansion of the Modesto Regional Water Treatment Plant with the Modesto Irrigation District.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

Exhibit "A"  
**ESTIMATED PROJECT COSTS  
 ADVANCED BY MID**

ITEM	ESTIMATED TOTAL COST	AMOUNT PAID OR TO BE PAID DIRECTLY BY THE CITY	AMOUNT ADVANCED BY MID
Public Outreach Program	\$30,000	\$15,000	\$15,000
MID Labor Cost & Expenses	TBD*	-	TBD*
Initial Environmental Review (Insite Environmental)	\$12,000	-	\$12,000
Environmental Documentation (Jones & Stokes)	\$220,000	-	\$220,000
Preliminary Study (Black & Veatch)	\$120,000	\$60,000	\$60,000
Preliminary Engineering Design (Black & Veatch)	\$1,200,000	-	\$1,200,000
<b>Amount to be Reimbursed by the City of Modesto **</b>			<b>\$1,507,000 plus TBD Costs</b>

\* TBD - To be determined at a future date

\*\* Amounts advanced by MID shall be reimbursed by the City of Modesto at a future date through the Project's financing.

NOTE: This Exhibit "A" supercedes Exhibit "A" to Amendment No. 1.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-380**

**A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT  
TO EXECUTE AMENDMENT NO. 3 TO THEIR EXISTING AGREEMENT  
WITH THE BLACK & VEATCH CORPORATION IN AN AMOUNT NOT TO  
EXCEED AN ADDITIONAL \$450,000, FOR A TOTAL AGREEMENT AMOUNT  
OF \$1,200,000, TO PROVIDE ADDITIONAL PRELIMINARY ENGINEERING  
DESIGN SERVICES RELATED TO THE PHASE TWO EXPANSION OF THE  
MODESTO REGIONAL WATER TREATMENT PLANT**

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the MRWTP, and

WHEREAS, by Resolution No. 2005-379, adopted on July 12, 2005, the Council has authorized the City Manager, or his designee, to execute Amendment No. 2 to the Advanced Funding and Reimbursement Agreement with the MID for costs related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in the Phase Two Expansion MRWTP, and

WHEREAS, the Council of the City of Modesto adopted Resolution 2003-540, authorizing Modesto Irrigation District to execute an agreement with Black & Veatch to provide Preliminary Engineering Design services, not to exceed \$750,000, and

WHEREAS, MID and City staff agree that additional services are needed and justified for the project in an additional amount not to exceed \$450,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an amendment to the agreement with Black & Veatch in an amount not to exceed an additional \$450,000, for a total of \$1,200,000, to provide additional Preliminary Engineering Design services related to the Phase Two Expansion of the Modesto Regional Water Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2005 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-381**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 05/06 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF \$3,120,000, AND AUTHORIZING THE PURCHASING SUPERVISOR TO PURCHASE THIRTEEN (13) USED VEHICLES AT WHOLESALE AUCTION OR THROUGH OTHER COMPETITIVE PROCESSES FOR AN ESTIMATED BUDGETED AMOUNT OF \$216,000**

WHEREAS, the City has an ongoing need to purchase vehicles and heavy equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal and informal bid processes, auction, negotiation, and by “piggybacking” off State contracts and other agencies’ competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Supervisor to solicit bids and go to auction for said vehicles and heavy equipment without having to go before the Finance Committee and the Council for authorization to issue bids, and

WHEREAS, each vehicle and/or heavy equipment staff report that goes through this process takes approximately 90-120 days to complete and on average accounts for approximately fifteen (15) hours of staff time to process, and

WHEREAS, by authorizing the Purchasing Supervisor 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 Supervisor 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 approval by Council the Purchasing Supervisor will solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$3,120,000, and

WHEREAS, upon approval by Council the Purchasing Supervisor, or his designee, will purchase thirteen (13) used vehicles at auction or through various competitive processes for an estimated total budgeted amount of \$216,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit bids for new vehicles and equipment throughout FY 05/06 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$3,120,000, returning to Council for authorization to award said new vehicles and equipment.

BE IT FURTHER RESOLVED that the Purchasing Supervisor, or his designee, is hereby authorized to purchase thirteen (13) used vehicles for an estimated budgeted amount of \$216,000 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 3rd day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest : Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-382**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE MODESTO  
CONVENTION AND VISITORS BUREAU (CVB) AND THE CITY OF  
MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
AGREEMENT**

WHEREAS, on June 24, 2003, the City of Modesto and the Modesto Convention and Visitors Bureau entered into an Agreement under authority of Resolution No. 2003-316 to provide convention and visitor bureau services, and

WHEREAS, it is the desire of the City and the Modesto Convention and Visitors Bureau to continue to provide convention and visitor bureau services, and

WHEREAS, funding for the Modesto Convention and Visitors Bureau is based on Transient Occupancy Tax collections received by the City of Modesto, and

WHEREAS, at their June 27, 2005, meeting, the Finance Committee recommended continuing the relationship between City of Modesto and the Modesto Convention and Visitors Bureau,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby approves the agreement with the Modesto Convention and Visitors Bureau to provide convention and visitor bureau 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 special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> of August, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-383**

**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 specification for Deputy City Attorney I, Deputy City Attorney II, Senior Deputy City Attorney I, and Senior Deputy City Attorney II. Said classifications are being amended to update the job specification and to incorporate other minor operational changes to more accurately reflect the requirements of these classifications. The revised specification for the classifications of Deputy City Attorney I, Deputy City Attorney II, Senior Deputy City Attorney I and Senior Deputy City Attorney II, as shown on the attached Exhibit "A", which is hereby made part of this resolution by reference, are hereby approved and made a 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 confidential designation from the classification of Administrative Office Assistant I-Confidential. Said classification is currently no longer being used with the confidential designation.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after August 3, 2005.

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 August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
No. 2313  
No. 2312  
No. 2311  
No. 2310

APRIL 1988  
AUGUST 2005

DEPUTY CITY ATTORNEY I  
DEPUTY CITY ATTORNEY II  
SENIOR DEPUTY CITY ATTORNEY I  
SENIOR DEPUTY CITY ATTORNEY 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 legal work related to municipal government operations; to conduct legal research, prepare opinions, memoranda, administrative rules and regulations and other legal documents; to advise City departments, boards and commissions; and to represent the City in a variety of litigation that involved administrative hearings, trial and appellate work.

DISTINGUISHING CHARACTERISTICS

Positions in this class are flexibly staffed and are usually filled by advancement from the lower level class ~~and when not done so require previous experience.~~ or when filled from the outside, require prior work experience directly related to the area of assignment.

Deputy City Attorney I – This is the entry-level class in the Deputy City Attorney series. This class is distinguished from the Deputy City Attorney 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 or no directly related work experience.

Deputy City Attorney II – This is a full journey professional level class within the Deputy City Attorney series. Employees within this class are distinguished from the Deputy City Attorney I by the performance of the full range of duties as assigned including those duties involving higher levels of City administration and the more difficult assignments. 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. This class is distinguished from the Senior Deputy City Attorney I in that the latter have broad discretionary and decision-making responsibility and perform complex legal work with very little supervision.

Senior Deputy City Attorney I – This is the advanced journey professional level class in the Deputy City Attorney series. Positions at this level are distinguished ~~from other classes within the series~~ by the level of responsibility assumed and the complexity of duties assigned. Employees perform the most difficult and responsible types of duties assigned to classes within this series including duties involving higher levels of City administration and performing more difficult assignments. Employees at this level are required to be fully trained in all procedures related to assigned area of responsibility.



Senior Deputy City Attorney II – This is the highest-level class in the Deputy City Attorney series. After one ~~When an employee's employment history shows one year of~~ satisfactory performance as a Senior Deputy City Attorney I, ~~he/she~~ an employee may be promoted to Senior Deputy City Attorney II and is ~~expected to take~~ assigned to a wide variety of the most complex cases ~~the most and wide variety of cases.~~

#### SUPERVISION RECEIVED AND EXERCISED

##### Deputy City Attorney I

~~Receives direction from the Assistant City Attorney.~~

~~Exercises technical supervision over clerical staff.~~

##### Deputy City Attorney II

~~Receives direction from the Assistant City Attorney.~~

~~Exercises technical supervision over clerical staff.~~

##### Senior Deputy City Attorney I

~~Receives general direction from the Assistant City Attorney.~~

~~Exercises technical supervision over clerical staff.~~

##### Senior Deputy City Attorney II

~~Receives general direction from the Assistant City Attorney.~~

~~Exercises technical supervision over clerical staff.~~

May receive general direction from the Assistant City Attorney, City Attorney or assigned Department Director.

Depending on assignment, may exercise technical supervision over assigned staff.

#### EXAMPLES OF DUTIES

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

##### Essential Functions:

Assist in or prepare cases for hearings, trials, and other judicial proceedings and represent the City in such proceedings including all phases of pretrial and trial work in municipal, State and Federal courts.

Essential Functions: (Continued)

Examine and analyze court rulings and legislation with regard to its effect on municipal government operations.

Confer with and advise City departments, boards and commissions concerning their respective duties, powers, functions and obligations.

Perform legal research and prepare written and oral opinions and various legal problems for the City Council, City departments, and various boards and commissions.

Prepare, draft and review ordinances, resolutions, contracts, deeds, leases and other legal documents and instruments; offer opinions as to legal acceptability when presented to the City for consideration by an outside agent or agency.

Represent the City in litigation.

Investigate claims and complaints against the City and take or recommend appropriate action; make tentative decisions concerning advisability to; prosecute, compromise, or dismiss litigation and discuss recommendations and problems with the Assistant or City Attorney.

May train and direct the work of ~~subordinate professional~~ assigned staff.

May participate in employee selection and performance evaluations.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Deputy City Attorney I

Knowledge of:

Legal principles and practices, including civil, criminal, constitutional, and administrative law and procedures.

Methods of legal research.

Tort law and liability insurance litigation.

Judicial procedures and rules of evidence.

Statutes and court decisions relating to civil rights and public labor law.

Exhibit "A"

Ability to:

Learn ordinances, statutes and court decisions relating to municipal corporations.

Learn organization and operation procedures of a City Attorney's Office.

Learn modern and highly complex principles of municipal law.

Learn methods of public agency administration.

Learn organization, duties, powers, limitations, and authority of City government and the City Attorney's Office.

Deputy City Attorney II

In addition to the qualifications for Deputy City Attorney I:

Knowledge of:

Ordinances, statutes and court decisions relating to municipal corporations.

Organization and operating procedures of a City Attorney's Office.

Modern and highly complex principles and practices of municipal law.

Methods of public agency administration.

Organization, duties, powers, limitations, and authority of City government and the City Attorney's Office.

Establish precedents and sources of legal reference applicable to municipal activities.

Senior Deputy City Attorney I

In addition to the qualifications for Deputy City Attorney II:

Ability to:

Learn the principles of supervision, training and performance evaluation.

Represent the City in a wide variety of complex judicial and administrative proceedings.

Analyze and prepare a wide variety of complex cases in court.

Conduct research on legal complex problems and prepare sound legal opinions.

Exhibit "A"

Ability to: (Continued)

Learn established precedents and sources of legal reference applicable to municipal activities.

Represent the City in a wide variety of judicial and administrative proceedings.

Communicate clearly and concisely, both orally and in writing.

Analyze and prepare a wide variety of legal documents.

Organize, interpret, and apply legal principles and knowledge of legal problems; effectively apply legal knowledge and principles in court.

Present statements of law, fact and argument clearly, logically and effectively.

Prepare and present cases in court.

Conduct research on legal problems and prepare sound legal opinions.

Prepare clear and concise documents including correspondence and bond documentation.

Properly interpret and make decisions in accordance with laws, regulations and policies.

Establish and maintain cooperative working relationships with the general public, staff, committee members, and public officials.

Senior Deputy City Attorney II

In addition to the qualification for Senior Deputy City Attorney I:

Knowledge of:

Principles of supervision, training and performance evaluation.

Ability to:

Select, supervise, train, coach and evaluate assigned staff.

Prosecute the most difficult cases.

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"

Deputy City Attorney I

Experience:

No experience is required.

Deputy City Attorney II

Experience:

One year of experience in the practice of civil or municipal law.

Senior Deputy City Attorney I

Experience:

Two years of progressively responsible experience in the practice of civil or municipal law.

Senior Deputy City Attorney II

Experience:

Three years of progressively responsible experience in the practice of civil or municipal law.

Training (all levels):

A Juris Doctorate from an accredited law school.

License or Certificate (all levels):

Active membership in the State Bar of California.

Possession of, or the ability to obtain, an appropriate and valid California Driver's License.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition for sitting for prolonged periods of time; attending meetings; using a personal computer and related office equipment and traveling from site to site.

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-384**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-178  
(MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION  
MEMORANDUM OF UNDERSTANDING) TO AMEND THE CLASS RANGE  
TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-  
SWORN CLASSES TO DELETE ADMINISTRATIVE OFFICE ASSISTANT I-  
CONFIDENTIAL FROM SALARY RANGE 403**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2003-178 (MCMA Memorandum Of Understanding),

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2003-178. (MCMA Memorandum of Understanding), Resolution No. 2003-178 Effective April 8, 2003, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective August 3, 2005", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" deletes the Administrative Office Assistant I-Confidential at salary range 403 from the class range table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after August 3, 2005.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **August 3, 2005**

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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

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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

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"

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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. 2005-385**

**A RESOLUTION APPROVING A FOURTH AMENDMENT TO  
THE CRIME PREVENTION ACT 2000 AGREEMENT BETWEEN  
THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS,  
FOR ONE MODESTO POLICE OFFICER TO WORK ON THE  
HIGH-RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM  
AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE SAID AMENDMENT TO THE AGREEMENT**

WHEREAS, on July 1, 2001, by Resolution Number 2001-351, the City Council approved an agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 8, 2002, by Resolution Number 2002-377, the City Council approved the first amendment to that agreement, and

WHEREAS, on August 6, 2003, by Resolution Number 2003-428 the City Council approved a second amendment to that agreement, and

WHEREAS, on August 4, 2004, by Resolution Number 2004-397 the City Council approved a third amendment to that agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile court warrants, and

WHEREAS, the County of Stanislaus Probation Department and the Modesto Police Department desire to continue to provide intensive supervision and monitoring to

high-risk juvenile wards, enforce Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior for the purpose of reducing juvenile crime and gang involvement and increasing offender accountability, and

WHEREAS, the Modesto Police Department can provide an experienced and competent Police Officer for these purposes and the City wishes to enter into a fourth amendment to the agreement with the Probation Department to provide such services, and

WHEREAS, the cost of one Modesto Police Officer, his or her benefits and personal equipment, will be paid by the County of Stanislaus by a federal grant obtained for the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, said amendment extends the term of the agreement from July 1, 2005 to June 30, 2006, and provides total compensation of \$79,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fourth Amendment to the Crime Prevention 2000 Agreement between the City of Modesto and the Stanislaus County Probation Department for one Modesto Police Officer to work in the High-Risk Offender/Juvenile Warrant Enforcement Program for fiscal year 2005/06 is hereby approved.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-386**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR THE HIGH RISK  
OFFENDER SUPERVISION AND JUVENILE COURT WARRANT  
ENFORCEMENT PROGRAM**

WHEREAS, on July 1, 2001, by Resolution Number 2001-351, the City Council approved an agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 8, 2002, by Resolution Number 2002-377, the City Council approved the First Amendment to that agreement, and

WHEREAS, on August 6, 2003, by Resolution Number 2003-428 the City Council approved a Second Amendment to that agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 4, 2004, by Resolution Number 2004-397 the City Council approved a Third Amendment to that agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, the County of Stanislaus Probation Department and the Modesto Police Department desire to continue to provide intensive supervision and monitoring to



high-risk juvenile wards, enforce Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior for the purpose of reducing juvenile crime and gang involvement and increasing offender accountability, and

WHEREAS, the Modesto Police Department can provide an experienced and competent Police Officer for these purposes and the City wishes to enter into a Fourth Amendment to the agreement with the Probation Department to provide such services, and

WHEREAS, the cost of one Modesto Police Officer, his or her benefits and personal equipment, will be paid by the County of Stanislaus by a federal grant obtained for the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, said amendment extends the term of the agreement from July 1, 2005 to June 30, 2006, and provides total compensation of \$79,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Annual Budget is hereby amended as follows:

To:		
Revenue:	\$79,700	0410-190-2983-3313 High Risk Offender Program
To:		
Appropriations:	\$79,700	0410-190-2983 High Risk Offender Program Salary and Benefits

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-387**

**A RESOLUTION APPROVING THE FINAL MAP OF THE CANTERBURY  
ESTATES SUBDIVISION AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE A SUBDIVISION AGREEMENT WITH RICHMOND AMERICAN  
HOMES OF CALIFORNIA, A COLORADO CORPORATION**

WHEREAS, RICHMOND AMERICAN HOMES OF CALIFORNIA, a Colorado Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.35 acres, known as the CANTERBURY ESTATES SUBDIVISION (“SUBDIVISION”), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on June 11, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 30<sup>th</sup> day of August, 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 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 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-388**

**A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD  
EASEMENT FROM GORDON D. STEWART AND JOHN F. STEWART  
THAT ALLOWS AIRCRAFT FLIGHT OVER RESIDENTIAL PROPERTY  
ON RIVER 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, Gordon D. Stewart and John F. Stewart intend to sell real property located on River 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, Gordon D. Stewart and John F. Stewart have 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 Gordon D. Stewart and John F. Stewart.

BE IT FURTHER RESOLVED that Council 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 3<sup>rd</sup> day of August 2005 by Councilmember Jackman, 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-389**

**A RESOLUTION ACCEPTING THE PROPOSAL AND APPROVING A  
CONTRACT WITH LARRY WALKER ASSOCIATES FOR PROFESSIONAL  
SERVICES FOR THE WASTEWATER TREATMENT PLANT (WWTP)  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER FOR A TWO-  
YEAR AGREEMENT, NOT TO EXCEED \$242,000, WITH OPTIONS FOR TWO  
(2), ONE-YEAR RENEWALS, NOT TO EXCEED \$100,000 EACH YEAR, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE CONTRACT**

WHEREAS, the treated effluent from the City's wastewater stream is discharged to the San Joaquin River and this discharge is regulated by the state through the federal NPDES permit, and

WHEREAS, this permit has a renewal term of five years and is due for renewal in May of 2006 and the renewal process is initiated by the Central Valley Regional Water Quality Control Board (Regional Board), and

WHEREAS, the current permit includes specific "effluent limitations" that are typically reflected as maximum allowable discharge concentrations for certain constituents, and

WHEREAS, the State Implementation Plan also allows the City to perform additional water quality studies related to permit compliance and effluent limitations, and

WHEREAS, to provide the best available science for the permit renewal process, the City needs to collect data and perform several additional water quality studies, and

WHEREAS, these studies will be performed in two phases to determine if completion of the study beyond initial "range-finding" is necessary, and

WHEREAS, professional services are essential for the City to continue meeting the NPDES Permit requirements and for successful negotiations with the Regional Board during the 2006 permit renewal process, and

WHEREAS, on May 24, 2005, Council approved Resolution No. 2005-276, authorizing the Public Works Department to solicit Request for Proposals (RFP) for professional assistance for the WWTP NPDES permit for discharge to the San Joaquin River, and

WHEREAS, staff solicited requests for proposals from 84 firms and formally advertised the RFP, and

WHEREAS, two (2) proposals were received in response to the RFP, and

WHEREAS, interviews of the two firms were performed by a four-member panel, including two external, non-staff, members, and

WHEREAS, the interviews were also observed by Councilmember Denny Jackman, and

WHEREAS, upon completion of the interview process it was determined that Larry Walker Associates is the most qualified firm based on the total score, and

WHEREAS, funds are budgeted in Account 6210-480-5217-0235 in the amount of \$242,000 for FY 2005-06 for the two-year agreement and will be budgeted in Account 6210-480-5217-0235 for FY 2007-08 and FY 2008-09 in the amount of \$100,000 per year should the additional one-year extensions be necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the acceptance of proposal and approves the award of contract to Larry Walker Associates for professional assistance for the WWTP NPDES permit for



discharge to the San Joaquin River for a period of two years, not to exceed \$242,000, with options for two (2), one-year renewals, not to exceed \$100,000 each year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract on behalf of the City.

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 August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-390**

**RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY LEVEL TO AMEND THE PROJECT SCOPE BY CHANGE  
ORDER TO ADD WORK AT RUMBLE ROAD AND STANDIFORD AVENUE  
CROSSINGS NOT PREVIOUSLY INCLUDED IN THE CONTRACT ON THE  
"VIRGINIA CORRIDOR CROSSINGS AND GRADE RESTORATION  
PROJECT" FROM 8 PERCENT (\$137,717.32) TO 22 PERCENT (\$378,722.63) OF  
THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC.**

WHEREAS, on February 24, 2004, the City Council passed a resolution allocating the remaining Federal Demonstration funding, and

WHEREAS, on August 4, 2004, the City Council awarded a \$1,721,466.50 contract to George Reed, Inc. to construct the "Virginia Corridor Crossings and Grade Restoration Project" project, and

WHEREAS, during the course of construction the Contractor was required to perform extra work not anticipated or included in the original contract, and

WHEREAS, the cost of the extra work is estimated to be as high as \$378,722.63, 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 8 percent of the original contract price which amounts to \$137,717.32 on a project this size, and

WHEREAS, the Council desires to fully utilize the Federal funding available for this project,

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 amend the project scope by change order to add work at Rumble Road and Standiford Avenue crossings not previously included in the contract, from 8 percent (\$137,717.32) to 22 percent (\$378,722.63) for the project entitled "Virginia Corridor Crossings and Grade Restoration Project."

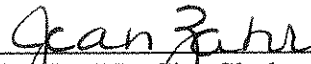
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

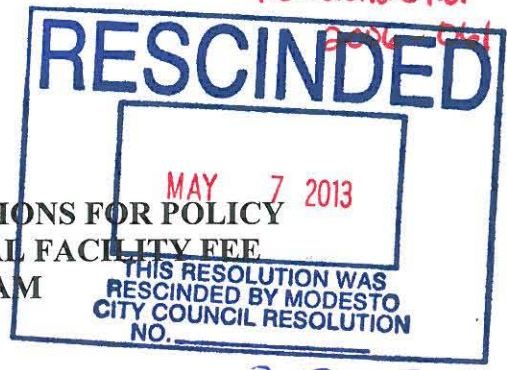
ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

Amended by  
Resolution No.



MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-391

RESOLUTION ADOPTING STAFF RECOMMENDATIONS FOR POLICY  
DIRECTION RELATED TO THE STREETS CAPITAL FACILITY FEE  
CAPITAL IMPROVEMENT PROGRAM

WHEREAS, Capital Facility Fees (CFF) are development fees intended to mitigate the impacts of growth, and

WHEREAS, CFF fees are paid later in the development process, and

WHEREAS, Streets CFF projects require significant sums of funds for construction, and

WHEREAS, the most efficient use of Streets CFF funds is critical to the City, and

WHEREAS, approximately 20% of the CFF program is comprised of major interchange projects, and

WHEREAS, staff is seeking policy direction on prioritization of Capital Improvement Projects funded with Streets CFF, and

WHEREAS, staff recommends that 20% of all Streets CFF collected be set aside for major interchange projects, and

WHEREAS, staff proposes the use of CIP project prioritization principles as set forth in a report to the Mayor and Council from James Niskanen, the Acting Public Works Director, dated July 19, 2005, and

WHEREAS, staff further proposes that certain transportation corridors be given high priority for programming projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to set aside 20% of all Streets CFF revenue collected to be applied to major interchange projects,

BE IT FURTHER RESOLVED that the Council hereby directs staff to apply the following guiding principles relating to CIP project prioritization

listed in the order of priority:

- a. Address Critical Safety Issues
- b. Legal Obligations
  - i. Projects must be included in the program to use CFF funding.
  - ii. Honor all commitments in existing executed agreements.
- c. Maximize Traffic Benefits For Dollars Spent
  - i. Phase projects to maximize traffic benefits per unit cost.
  - ii. Utilize lower cost traffic improvements such as restriping and signal modifications where possible.
  - iii. Project amenities will follow later.
- d. Economic Development
  - i. Projects to complement high priority economic development.
- e. Segment Completion
  - i. Projects that complete segments of previously phased work.

BE IT FURTHER RESOLVED that the Council hereby directs staff to consider the following transportation corridors a high priority when budgeting Streets CFF Capital Improvement Projects:

- a. East-West Priority Corridors
  - i. Pelandale Avenue
  - ii. Briggsmore Avenue
- b. North-South Priority Corridors
  - i. Carpenter Road
  - ii. Claus Road

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 August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-392**

**A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR  
THE 2005 BYRNE JUSTICE ASSISTANCE GRANT WITH THE U.S.  
DEPARTMENT OF JUSTICE FOR THE REPLACEMENT/UPGRADE OF THE  
MODESTO POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH  
SYSTEM (CAD), INTEGRATED PUBLIC SAFETY SYSTEM, AND RECORDS  
MANAGEMENT SYSTEM (RMS), AND AUTHORIZING THE CITY  
MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID  
APPLICATION**

WHEREAS, the City of Modesto Police Department can make application to the U. S. Department of Justice for the 2005 Byrne Justice Assistance Grant, and

WHEREAS, the Police Department wishes to submit an application to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

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

WHEREAS, the total grant project will be \$116,200, and

WHEREAS, there is no local match required for this program, and

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for funding for the purchase of hardware that will be required to support the new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) to the Council of the City of Modesto, in a public hearing, after notification that the application has been accepted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Byrne Justice Assistance

Grant for the purchase of assisting in funding the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS).

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-393**

**A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR  
THE 2005 BYRNE JUSTICE ASSISTANCE GRANT WITH THE U.S.  
DEPARTMENT OF JUSTICE FOR THE REPLACEMENT/UPGRADE OF THE  
MODESTO POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH  
SYSTEM (CAD), INTEGRATED PUBLIC SAFETY SYSTEM, AND RECORDS  
MANAGEMENT SYSTEM (RMS), AND AUTHORIZING THE CITY  
MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID  
APPLICATION**

WHEREAS, the City of Modesto Police Department can make application to the U. S. Department of Justice for the 2005 Byrne Justice Assistance Grant, and

WHEREAS, the Police Department wishes to submit an application to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

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

WHEREAS, the total grant project will be \$116,200, and

WHEREAS, there is no local match required for this program, and

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for funding for the purchase of hardware that will be required to support the new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) to the Council of the City of Modesto, in a public hearing, after notification that the application has been accepted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Byrne Justice Assistance

Grant for the purchase of assisting in funding the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS).

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-394**

**A RESOLUTION APPOINTING TAMMY SPILLERS AND BRUCE NORRIS 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 July 11, 2005, and recommended appointment of TAMMY SPILLERS and BRUCE NORRIS to the Board of Building Appeals.

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

SECTION 1. TAMMY SPILLERS, with a term expiration of January 1, 2006, and BRUCE NORRIS, with a term expiration of January 1, 2009, are hereby appointed to the Board of Building Appeals.

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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-394A

A RESOLUTION APPOINTING NICK RAPPLEY 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 July 11, 2005, and recommended appointment of NICK RAPPLEY, a northeast area resident, to the Community Qualities Forum.

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

SECTION 1. NICK RAPPLEY, a northeast area resident, is hereby appointed to the Community Qualities Forum with term expirations 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 Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

BSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:   
JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-395**

**A RESOLUTION APPOINTING JEROLD ROSENTHAL TO THE  
COMMUNITY QUALITIES FORUM**

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

WHEREAS, Councilmember Garrad Marsh has recommended JEROLD ROSENTHAL as his selection to the Community Qualities Forum.

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

SECTION 1. JEROLD ROSENTHAL is hereby appointed to the Community Qualities Forum 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 Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

ATTEST:   
JEAN ZAHRA, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-396**

**A RESOLUTION AUTHORIZING THE CESSATION OF SPECIAL TAXES FOR  
PARCELS ANNEXED TO BOTH CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 1996-1 AND CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2004-1, AND DIRECTING THE CITY CLERK TO  
RECORD A NOTICE OF CESSATION OF SPECIAL TAX**

WHEREAS, on October 8, 1996, the City Council adopted Resolution No. 96-554, establishing the City's Community Facilities District No. 1996-1 (Village One) ("District #1") and authorizing the levy of special taxes within District #1 pursuant to Chapter 2.5 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"), which Resolution has been amended from time to time, and

WHEREAS, on October 8, 1996, the City Council adopted Ordinance No. 3005-C.S., levying the special taxes within District #1, which Ordinance has been amended from time to time, and

WHEREAS, on April 6, 2004, the City Council adopted Resolution No. 2004-199, establishing the City's Community Facilities District No. 2004-1 (Village One #2) ("District #2) and authorizing the levy of special taxes within District #2 pursuant to the Act, and

WHEREAS, on April 27, 2004, the City Council adopted Ordinance No. 3345-C.S., levying the special taxes within District #2 and on July 12, 2005, the City Council adopted Ordinance No. 3392-C.S., levying the special taxes within Zone #2 of District #2; and

WHEREAS, following the formation of District #1 and District #2 (collectively “Districts”), the City Council has ordered annexations to each District, and

WHEREAS, certain parcels have been annexed to both Districts, and

WHEREAS, pursuant to Government Code Section 53330.5, the City Council may determine that a special tax shall cease to be levied when it is no longer needed to pay the costs and incidental expenses of services or of the construction of facilities authorized by the Act, and

WHEREAS, the special taxes to be levied on parcels within District #2 incorporate and include the costs and incidental expenses of services and the construction of facilities that were previously authorized in the special taxes to be levied on parcels within District #1, and

WHEREAS, the proceedings contemplated, and it is in the public interest, that for those parcels which are annexed to District #1 and subsequently annex to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, would no longer be needed, and would be permanently satisfied and cease to be levied, upon annexation of said parcels to District #2.

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

SECTION 1: The above recitals are true and correct.

SECTION 2: For those parcels which are annexed to District #1 and which subsequently annex to District #2, the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as



amended, is no longer necessary to pay the costs and incidental expenses for services or for the construction of facilities authorized for District #1, and shall be permanently satisfied and cease to be levied, upon annexation of said parcels to District #2.

SECTION 3: The City Clerk is hereby directed to record a Notice of Cessation of Special Tax for the special tax obligation authorized to be levied pursuant to Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, as to any parcel which is annexed to District #1 and subsequently annexes to District #2.

SECTION 4: The Notice of Cessation shall state that the obligation to pay the special tax authorized to be levied pursuant to City Council Resolution No. 96-554, as amended, and Ordinance No. 3005-C.S., as amended, has ceased and that the lien imposed by the Notice of Special Tax Lien recorded in the records of the County Recorder of Stanislaus County, State of California, is extinguished.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-397**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-398**

**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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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


NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

 CITY of MODESTO	CITY COUNCIL POLICY		<b><u>POLICY NO.:</u></b> <b><u>1.019</u></b>
<b>SUBJECT: INVESTMENT POLICY</b>			

**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 care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

**INVESTMENT REPORT**

The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments and monies.

2. The weighted average maturity of the portfolio.
3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.
4. The market value as of the date of the report, and the source of the valuation.
5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.
6. A statement denoting the City's ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

### **INVESTMENT CRITERIA**

Public funds are invested in the following manner in order of priority:

1. **Safety of Principal**

The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. **Liquidity**

The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. **Yield**

Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

### **SAFEKEEPING AND CUSTODY**

All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City's name.

## **PERFORMANCE STANDARDS**

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio's performance against a market benchmark that is commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

## **AUTHORIZED INVESTMENTS**

Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

- A. City of Modesto bonds.** Bonds issued by the City.
- B. U.S. Treasury securities.** United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.
- C. State of California securities.** Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency
- D. California municipal securities.** Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency
- E. Federal Agency securities.** Obligations issued by a federal agency or United States government-sponsored enterprise.
- F. Bankers' Acceptances.** Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or \$1 million.

- G. Commercial Paper.** Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the

following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of \$500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

**H. Certificates of Deposit.** FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

**I. Negotiable Certificates of Deposit.** Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated "AA" or better by Moody's or Standard & Poor's. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

**J. Repurchase Agreements.** Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City's custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.



Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of \$1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

**K. Reverse Repurchase Agreements.** The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

**L. Medium-term corporate notes .** Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

**M. Money market funds.** Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

**N. State of California Local Agency Investment Fund (LAIF).**

**O. Mortgage and asset-backed securities.** Any mortgage pass-through security,

collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

### **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. 2005-399**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
EXTEND AN ANNUAL PURCHASE AGREEMENT WITH BRISCO  
ENTERPRISES, OF MERCED, CA FOR A FOUR (4) MONTH EXTENSION  
PERIOD TO ALLOW FOR THE REMOVAL AND TRANSPORTATION OF  
WASTEWATER BIO-SOLIDS IN THE APPROXIMATE AMOUNT OF \$121,000**

WHEREAS, Resolution 2001-369 authorized an annual purchase agreement with Brisco Enterprises, of Merced, CA for the removal and transportation of wastewater bio-solids to the City's compost facility for FY 2001/2002, with the option of three (3) additional, one-year contract extensions, and

WHEREAS, the annual purchase agreement expired June 30, 2005, and

WHEREAS, the annual purchase agreement should have been put in place to expire in October of 2005 to coincide with the bio-solids removal seasonal calendar, and

WHEREAS, the removal of dried bio-solids will provide renewed drying bed space for the revolving wastewater bio-solids process, and

WHEREAS, the Modesto Municipal Code ( MMC) generally requires all purchases which meet or exceed \$50,000 to be formally bid, and

WHEREAS, there are several exceptions to the MMC formal bidding requirements, and

WHEREAS, one exception is available that allows the Purchasing Supervisor to determine that calling for bids is undesirable due to demanding circumstances, and

WHEREAS, based on the short window of opportunity available for the removal and transportation of the wastewater bio-solids, the Purchasing Supervisor invoked that exception for this four (4) month extension request, and

WHEREAS, funds in the amount of \$148,070 have been budgeted in FY 05/06 and are available in account number 6210-480-5213-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to extend the annual purchase agreement with Brisco Enterprises, of Merced, CA for a four (4) month period in the approximate amount of \$121,000 for the removal and transportation of wastewater bio-solids.

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-400**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
ISSUE A FORMAL REQUEST FOR BID (RFB) FOR THE REMOVAL AND  
TRANSPORTATION OF WASTEWATER BIO-SOLIDS FOR AN INITIAL  
THREE (3) YEAR AGREEMENT AND WITH TWO (2) ONE-YEAR CONTRACT  
EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL AMOUNT OF \$165,000**

WHEREAS, the Public Works Department requested the removal and transportation of wastewater bio-solids, and

WHEREAS, the Wastewater Treatment Plant located at 1221 Sutter removes dewatered bio-solids from drying beds located at the site, and

WHEREAS, the accumulated bio-solids are the result of the designed solids removal process, 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 beds and then transported to the Secondary Treatment Plant where they are screened, rototilled, hydrated and applied to the City's Ranch fields as a soil amendment, and

WHEREAS, the existing contract for the removal and transportation of primary wastewater bio-solids has expired, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases which meet or exceed \$50, 000 to be formally bid, and

WHEREAS, by soliciting competitive bids for the removal and transportation of wastewater bio-solids, the Purchasing Division will comply with MMC formal bidding requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal bids as follows:

SECTION 1. The City Clerk shall call for public competitive sealed bids for the removal and transportation of wastewater bio-solids services, for a three (3) year agreement, with two (2) one-year extension options, 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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-401**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR ROCK, SAND, AND GRAVEL FOR A TWO-YEAR PERIOD, WITH  
THREE (3), ONE-YEAR CONTRACT EXTENSION OPTIONS TO  
THORNBERRY OF CERES, CA, FOR AN ESTIMATED TOTAL ANNUAL  
COST OF APPROXIMATELY \$200,000**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of rock, sand, and gravel for FY 2005/2006, and

WHEREAS, the Central Stores unit of the Finance Department will stock said rock, sand, and gravel for use by City departments for rock well drainage, sand for parks, street maintenance operations and wastewater pond erosion control, and

WHEREAS, Central Stores will purchase the required rock, sand and gravel from account 7100-120-8311-0439 and departments will then purchase the rock sand and gravel from Central Stores with charges being made to appropriate accounts, and

WHEREAS, based on past usage and current pricing, the total cost for rock, sand, and gravel requirements for FY 2006 should be approximately \$200,000, and

WHEREAS, on May 24, 2005, Council approved Resolution No. 2005-261 authorizing the Purchasing Supervisor to formally solicit bids for the purchase of rock, sand, and gravel, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0405-28 to nine (9) companies, posted the bid on the City's web site , and formally advertised as required by law, and

WHEREAS, out of the nine (9) companies solicited, only one (1) chose to respond, and

WHEREAS, based on being the lowest responsive and responsible bidder, staff

recommends award of Bid No. 0405-28 to Thornberry of Ceres, CA, and

WHEREAS, this award of bid and contract complies with the Modesto Municipal Code, Section 8-3.20, regarding Formal Bid Procedures,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-28 and contract for the purchase of rock, sand, and gravel to Thornberry of Ceres, CA for a two (2) year period, with three (3), one-year extension options for a total estimated annual cost of approximately \$200,000.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue an annual purchase agreement to Thornberry of Ceres, CA for the purchase of rock, sand, and gravel for an initial two (2) year period, with three (3) one year extension options, for a total annual cost of approximately \$200,000.

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 August by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmemeber Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-402**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
SOLICIT REQUEST FOR BIDS (RFB) FOR MATERIAL HAULING SERVICES  
FOR AN INITIAL THREE (3)-YEAR PERIOD, WITH TWO (2) ONE-YEAR  
CONTRACT EXTENSION OPTIONS FOR AN ESTIMATED TOTAL ANNUAL  
COST OF \$250,000.00**

WHEREAS, the Public Works Department-Streets Division has requested material hauling service, and

WHEREAS, the Streets Division has fifty (50) years of deferred maintenance in paving residential streets, alleys, and major arterial and collector streets that are failing before capital improvement projects can be funded, and

WHEREAS, this can result in increased accidents and claims against the City of Modesto, and

WHEREAS, hundreds of City residential streets and alleys are beyond their service life, and

WHEREAS, in the past asphalt grindings were hauled away by using rented dump trucks or by borrowing dump trucks from other divisions, with the grindings then being stockpiled behind the Fire Training Center and used in the winter to reconstruct alleys, and

WHEREAS, the Streets Division currently does not have the staff or the trucks to haul away stockpiled materials, and

WHEREAS, the need and specifications for these materials have been developed over time through collaboration between staff in the Streets Division and the Purchasing Division, and

WHEREAS, by soliciting competitive bids for material hauling service, the Purchasing Division will comply with the Modesto City Code (MMC) regarding formal bid procedures,

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 material (grindings and hot asphalt) hauling service as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for material hauling services for an initial three (3) year period, with two (2) one-year contract extension options, 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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-403**

**A RESOLUTION APPROVING THE ESTABLISHMENT OF A FULL-TIME POSITION IN THE STANISLAUS COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES TO ASSIST IN THE ADMINISTRATION OF THE WASTE-TO-ENERGY PROJECT, APPROVING AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT**

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an "Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste" ("AGREEMENT"), and

WHEREAS, the AGREEMENT established an Executive Committee to administer the Joint Powers Agreement, and

WHEREAS, the Executive Committee consists of two members of the Modesto City Council and two members of the County Board of Supervisors, and

WHEREAS, the Executive Committee advises the City Council and the Board of Supervisors on project matters, and

WHEREAS, Section 2. of the Agreement Between City of Modesto and County of Stanislaus Relating to the Administration of Service Agreement for Supply and Acceptance of Solid Waste states that, "Each of the parties hereto shall appoint sufficient personnel to act in a staff capacity for said Committee...", and

WHEREAS, over the next few years, several major projects will place extraordinary demands on staff as the City and County consider an extension of the

current Service Agreement, a new operating agreement, and a new Power Purchase Agreement, and

WHEREAS, at the March 11, 2005, Waste-to-Energy Executive Committee meeting, City and County Solid Waste staff presented a joint proposal that the Committee approve a full-time position, funded by the project, to assist current staff with the management of the WTE facility operations and with the Service Agreement, operating agreement, and Power Purchase Agreement negotiations, and

WHEREAS, the recommendation was that the position be a County employee housed in the Stanislaus County Department of Environmental Resources, and that the position be at the Manager I-II level under Stanislaus County's Job Classes and Salaries categories, and

WHEREAS, work assignments for this position would be jointly agreed upon by the City and County Solid Waste Managers, and

WHEREAS, the annual cost to the project for this position is expected to be approximately \$147,000, to include salary, benefits, office space, auto use, equipment, and office supplies, and

WHEREAS, the cost of this position would be funded out of the Resource Recovery Account, and was included in the FY 2005-2006 Waste-to-Energy project budget approved by the City Council and Board of Supervisors, and

WHEREAS, the Solid Waste-to-Energy Executive Committee concurred with this recommendation, and unanimously approved forwarding this proposal to the City Council and Board of Supervisors, with a recommendation to amend the AGREEMENT to authorize the dedicated staff position, and



WHEREAS, the AGREEMENT can be modified and amended by mutual agreement of the parties, and

WHEREAS, the City Council must approve this Amendment for it to become effective,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby the establishment of a full-time position in the Stanislaus County Department of Environmental Resources to assist in the administration of the waste-to-energy project and approves Amendment No. 2 to the Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee.

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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**AMENDMENT NO. 2**  
to  
**AGREEMENT BETWEEN CITY OF MODESTO AND COUNTY OF STANISLAUS**  
**RELATING TO ADMINISTRATION OF SERVICE AGREEMENT**  
**FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE**

Pursuant to Paragraph 11 of the Agreement Between City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste (the "Administration Agreement"), the City of Modesto ("City") and the County of Stanislaus ("County") hereby modify the Administration Agreement as follows:

1. Section 2 of the Administration Agreement is amended to read as follows:

"There is hereby created a SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE which shall consist of two (2) members of the MODESTO'S City Council and two (2) members of the COUNTY'S Board of Supervisors, as selected by their respective legislative bodies and serving at their pleasure. Said SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE shall serve in an advisory capacity to the respective legislative bodies of the parties to this agreement and shall also act in an advisory capacity to the SOLID WASTE-TO-ENERGY staff as hereinafter described.

Said committee shall select a chairperson from among its members and shall adopt rules and regulations for holding its meetings and conducting its business. Each of the parties hereto shall appoint sufficient personnel to act in a staff capacity for said Committee.

There shall be established a full-time staff position dedicated to assist MODESTO and COUNTY staff with management of the Service Agreement. The position shall be a COUNTY employee classified as a Manager I or Manager II, commensurate with experience and ability. The position shall be funded from the SOLID WASTE-TO-ENERGY FUND. MODESTO and the COUNTY staff shall agree upon duties and performance objectives for the position, which may be revised from time to time as the deemed necessary by staff.

Signatures on Following Page

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Administration Agreement in duplicate on \_\_\_\_\_.

**COUNTY OF STANISLAUS**

**CITY OF MODESTO**

By: \_\_\_\_\_  
Jeff Grover, Chairman  
Board of Supervisors

By: \_\_\_\_\_  
Jim Ridenour  
Mayor

"County"

"City"

ATTEST: Christine Ferraro Tallman,  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

ATTEST: Jean Zahr, City Clerk

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO CONTENT:  
Department of Environmental Resources

APPROVED AS TO CONTENT:  
Parks, Recreation and Neighborhoods  
Department

By: \_\_\_\_\_  
Sonya K. Harrigfeld  
Director

By: \_\_\_\_\_  
Bob Quintella  
Acting Director

APPROVED AS TO FORM:  
Michael H. Krausnick  
County Counsel

APPROVED AS TO FORM:  
Michael D. Milich  
City Attorney

By: \_\_\_\_\_  
John P. Doering  
Assistant County Counsel

By: \_\_\_\_\_  
Rolland R. Stevens  
Assistant City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-404**

**A RESOLUTION APPROVING THE COMPLIANCE MEASURES FOR AB 2176  
LARGE VENUE AND LARGE EVENT RECYCLING, APPROVING THE  
ADOPTION OF THE “GUIDELINES FOR GARBAGE ENCLOSURES AND  
CONTAINERS” AND FORMALLY ADOPTING THE CIWMB’S “MODEL  
ORDINANCE RELATING TO AREAS FOR COLLECTING AND LOADING  
RECYCLABLE MATERIALS IN DEVELOPMENT PROJECTS” PURSUANT  
TO PUBLIC RESOURCES CODE SECTION 42910**

WHEREAS, the Integrated Waste Management Act, AB 939 (1989) mandated that all cities and Counties achieve and maintain a 50 percent solid waste reduction goal, and

WHEREAS, AB 75 (1999) mandated that all state operated facilities achieve and maintain a 50 percent solid waste reduction goal, and

WHEREAS, AB 2176 (2004) now mandates that operators of large venues and events must promote waste reduction planning for large venues and large events by making recycling available and convenient to the attendees of large venues and large events, and

WHEREAS, local agencies are required to identify the large venues and large events within their jurisdiction that meet the defined criteria of: (1) a large “venue” is a facility that annually averages at least 2,000 attendees and workers on-site per day of operation, or (2) a large “event” is an event that charges an admission price or is operated by a local agency, and serves an average of at least 2,000 attendees and workers per day of the event, and

WHEREAS, on and after July 1, 2005, local agencies are to provide waste diversion information to large venue and large event operators, and

WHEREAS, a working group was formed by staff representatives of the City of Modesto to determine what the large venue and large events in Modesto were and develop an informational brochure and permit form to be distributed to the large venue and large event operators, and

WHEREAS, beginning July 1, 2005, and annually thereafter, the operators of the large venue and large events are required to submit to the local agency, within 30 days of a request from the local agency, written documentation of waste reduction, reuse, recycling, and diversion programs, if any, that were implemented at the large venue or large event, and the type and weight of materials diverted and disposed of at the large venue or large event as outlined in the permit form, and

WHEREAS, on August, 1, 2006, and annually thereafter, local agencies must provide a report to the CIWMB specifying the diversion accomplishments for the top 10% waste generating large venues and large events in their jurisdiction, and

WHEREAS, beginning December 1, 2008, the California Integrated Waste Management Board (CIWMB) will evaluate the reports submitted by the local agencies to determine if less than 75% of the identified 10% large venues and events have complied with the reporting requirements and if they find that to be the case, then the CIWMB will recommend further statutory requirements to the Legislature for approval, and

WHEREAS, this mandate also amends Public Resources Code section 42911 to state that (a) each local agency shall adopt an ordinance relating to adequate areas for collecting and loading recyclable materials in development projects, and (b) if a local agency has not adopted an ordinance for collecting and loading recyclable materials in

development projects on or before September 1, 1994, the model ordinance adopted pursuant to Public Resources Code section 42910 shall take effect on September 1, 1994, and shall be enforced by the local agency and have the same force and effect as if adopted by the local agency as an ordinance, and (c) on and after July 1, 2005, a local agency shall not issue a building permit to a development project, unless the development project provides adequate areas for collecting and loading recyclable materials, and

WHEREAS, the City of Modesto did not adopt their own ordinance on or before September 1, 1994, and is therefore subject to the Model Ordinance Relating to Areas for Collecting and Loading Recyclable Materials in Development Projects adopted pursuant to Public Resources Code section 42910, and

WHEREAS, a working group formed by staff representatives of various departments in the City of Modesto determined the Model Ordinance needed to have more specific guidelines and, therefore, developed the Guidelines for Garbage Enclosures and Containers, and

WHEREAS, this item has been reviewed by the local garbage collection companies, the Citizens Advisory Committee on Recycling on May 24, 2005, the Construction Liaison Committee on June 14, 2005, and the Economic Development Committee on July 11, 2005, and

WHEREAS, as a local government agency the City has an obligation to comply with all Federal and State legislation, and AB 2176 is consistent with the Council's strategic plan policy section II.C and II.C.3 which states the City of Modesto will maximize recycling recovery and participation and will develop and implement new programs which will increase resource recovery and diversion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the compliance measures for AB 2176 Large Venue and Large Event Recycling and approves the formal adoption of the CIWMB "Model Ordinance Relating to Areas for Collecting and Loading Recyclable Materials in Development Projects" pursuant to Public Resources Code section 42910 and approves the adoption of the "Guidelines for Garbage Enclosures and Containers".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-405**

**A RESOLUTION APPROVING AVOID THE TWELVE GRANT PROJECT IN  
THE AMOUNT OF \$516,052.99 FROM THE STATE OF CALIFORNIA OFFICE  
OF TRAFFIC SAFETY AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE GRANT**

WHEREAS, The City of Modesto Police Department desires to undertake a certain project designated as Avoid the Twelve from the State of California Office of Traffic Safety (hereafter referred to as OTS), and

WHEREAS, the goal of the grant in the amount of \$516,052.99 is to reduce alcohol related injuries and death within Stanislaus County and raise the awareness of the general public regarding the problems with drinking and driving, and

WHEREAS, said project will be funded by a grant from the State of California Office of Traffic Safety, and

WHEREAS, said project was accepted for funding for a period of three years commencing on October 1, 2005 and ending on September 30, 2008, and

WHEREAS, the monies provided in this grant will provide for overtime Police and Sheriff Departments personnel in the Stanislaus County to conduct DUI checkpoints, and strike teams during Year-end Campaign, Memorial Day, Labor Day, Stanislaus County Fair, and Independence Day during prime DUI times, and

WHEREAS, the City of Modesto, in partnership with 11 agencies in this county, including Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford, Highway Patrol, Sheriff's Office, and the California State University Police, will come together for causes that affect each area of the county, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of August 1, 2005.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the three-year grant from the State Office of Traffic Safety in the amount of \$516,052.99 and approves the "Avoid the Twelve" project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant contract with OTS, including any extensions or amendments thereof.

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-406**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE FOR MULTI-YEAR GRANT AND APPROPRIATE  
FUNDS FOR THE AVOID THE TWELVE GRANT**

WHEREAS, the City of Modesto Police Department, in partnership with 11 law enforcement agencies including Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford, Highway Patrol, Sheriff's Office, and the California State University Police, will unite in "Avoid the Twelve" to combat drunk drivers and raise the awareness of the general public regarding the problems associated with drinking and driving, and

WHEREAS, the Modesto Police Department will have a Project Manager who will oversee administration and implementation of this county-wide program, and

WHEREAS, the City of Modesto Police Department will administer the reimbursement of the various law enforcement agencies that participate in the project, and

WHEREAS, the funds will be used for the DUI and Strike Team participants, and education material, and

WHEREAS, the grant will commence on October 1, 2005 and end on September 30, 2008, and

WHEREAS, the City shall be compensated \$516,052.99 from the State of California Office of Traffic Safety for this program, and

WHEREAS, there is no local match required for this program, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of August 1, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as follows:

Appropriate:

To:	0410-190-2901-0130	\$126,447.99	Officers' Overtime Hours
	0410-190-2901-0308	27,000.00	Officers' Operating Expenses
	0410-190-2901-0356	8,500.00	Program Equipment
	0410-190-2901-0207	24,000.00	Required Conferences
	0410-190-2901-0255	15,000.00	Administrative Costs
	0410-190-2901-0240	315,106	Other Government Services
	<b>Total</b>	<b>\$516,052.99</b>	

Revenue:

From:	0410-190-2901-3490	\$516,052.99	Avoid the Twelve Grant
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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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-407**

**A RESOLUTION ACCEPTING A \$100,000 GRANT ENTITLED THE MODESTO ABC PROJECT FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR THE REDUCTION OF CRIME AND EXCESSIVE CALLS FOR SERVICE IN AND AROUND MODESTO'S DISORDERLY AND DISRUPTIVE ABC LICENSED ESTABLISHMENTS AND TO REDUCE SALES OF ALCOHOL TO MINORS AND AUTHORIZING THE CITY MANAGER 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 \$100,000 grant will allow agencies in Stanislaus County and other outlying areas to work in collaboration to proactively address alcohol related crimes in Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the \$100,000 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 contract, 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 this 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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-408**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/2006 OPERATING  
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS**

WHEREAS, the Police Department acquired a grant award in the sum of \$100,000 from the State Department of Alcoholic Beverage Control for a project to reduce crime and excessive calls for service in and around Modesto'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 2005/2006 Annual Budget is hereby amended as indicated below to initiate said grant project:

<u>Expense:</u>			
To:	0410-190-2992-0130	\$92,500	Officers' Overtime Hours
	0410-190-2992-0262	2,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	2,500	Required Conferences
	Total	\$100,000	
<u>Revenue:</u>			
To:	0410-190-2992-3190	\$100,000	ABC Grant Funds

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-409**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH STANTEC CONSULTING, INC., FOR ADDITIONAL ENGINEERING DESIGN SERVICES IN THE AMOUNT OF \$36,794, FOR THE PROJECT TITLED "REPLACEMENT OF THE ROSE/CELESTE SEWAGE LIFT STATION," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT, INCREASING THE TOTAL ESTIMATED COST OF THE SERVICES TO \$276,295**

WHEREAS, the Public Works Department has determined that landscaping and an ornamental fence are necessary for the project titled "Replacement of the Rose/Celeste Sewage Lift Station", and

WHEREAS, City staff desires to have the force main work separated from the lift station work and bid as an alternate, and

WHEREAS, the Public Works Director has recommended accepting the proposal of Stantec Consulting, Inc., for additional design services in an amount not to exceed \$36,794,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement with Stantec Consulting, Inc., for additional engineering design services for the project titled "Rose/Celeste Sewage Lift Station" in an amount not to exceed \$36,794.

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 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-410**

**RESOLUTION ACCEPTING A FEDERAL AVIATION ADMINISTRATION  
GRANT AGREEMENT OFFER NO. DTFA08-05-C-31607 AND AMENDING THE  
CAPITAL IMPROVEMENT BUDGET TITLED AIRPORT EXPANSION AND  
RESURFACING**

WHEREAS, the City of Modesto has submitted to the Federal Aviation Administration (FAA) a Project Application for a grant of Federal funds for the Aircraft and Transient Apron project associated with the Modesto City-County Airport/Planning Area, and

WHEREAS, the Federal Aviation Administration has approved the Aircraft and Transient Apron project No. 03-06-0153-29 for the Airport, and

WHEREAS, the City accepts all conditions of the Agreement and authorizes the City Manager to execute the Agreement with the Federal Aviation Administration, and

WHEREAS, funds from the Federal Aviation Administration Grant in the amount of \$1,450,000 will be placed in the Airport Expansion and Resurfacing account 6320-440-M275, and

WHEREAS, City matching funds in the amount of \$72,500 will be transferred from the Airport Reserves and Passenger Facility Fees to the Airport Expansion and Resurfacing account 6320-440-M275,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and directs the City Manager, or his designee, to accept all Grant conditions and execute the Agreement with the FAA.

BE IT FURTHER RESOLVED that the Council hereby directs staff to amend the Budget to reflect the FAA Grant and transferred funds.

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-411**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
“EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT  
APRONS” PROJECT, ACCEPTING THE BID AND APPROVING A \$1,269,726  
CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED,  
“EXTEND CORPORATE AND RECONSTRUCT TRANSIENT AIRCRAFT  
APRONS,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT**

WHEREAS, the “Extend Corporate and Reconstruct Transient Aircraft Aprons” project will refurbish and extend the aircraft parking area between the terminal and the tower, and

WHEREAS, the project will also increase safety and security, and provide taxi and parking facilities for more and larger aircraft, and

WHEREAS, City staff has reviewed the project plans and specifications and recommends approval to the City Council, and

WHEREAS, the sole bid received for “Extend Corporate and Reconstruct Transient Aircraft Aprons” was opened at 11:00 a.m. on April 19, 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 \$1,269,726 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of George Reed, Inc, in the amount of \$1,269,726, and hereby awards George Reed, Inc., the contract titled “Extend Corporate and Reconstruct Transient Aircraft Aprons”

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 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-412**

**RESOLUTION ADOPTING RECOMMENDATIONS CONTAINED IN THE  
ATTACHED MEMO REGARDING SEWER RATE ALTERNATIVES-POLICY  
ISSUES FROM FORESIGHT CONSULTING DATED JULY 11, 2005 AND  
DIRECTING STAFF TO PROCEED WITH THE SEWER RATE STUDY BASED  
ON THOSE RECOMMENDATIONS**

WHEREAS, Council has directed staff to proceed with steps necessary to conduct a Sewer Rate Study, and

WHEREAS, Council has approved a contract with Foresight Consulting for services related to producing a Cost of Service Study to determine the appropriate level of sewer rates for the City, and

WHEREAS, there are a number of policy level decisions which must be made in order to conduct a Cost of Service Study, and

WHEREAS, Foresight Consulting, under the direction of the Sewer Rate Task Force comprised of key staff from affected departments, has produced the attached report, entitled "Sewer Rate Alternatives – Policy Issues," dated July 11, 2005, and marked as Exhibit "A," with the Task Force's recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the recommendations contained in the attached Exhibit "A" from Foresight Consulting, dated July 11, 2005, entitled "Sewer Rate Alternatives-Policy Issues," and directs staff to conduct the Sewer Rate Study based upon said recommendations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



## Sewer Rate Alternatives – Policy Issues

TO: Rich Ulm, City Engineer  
Greg Baird, Deputy Finance Dir.

Jennifer McHenry, City  
Attorney's Office

COPY: Joan Cox, Harris & Assoc.

FROM: Greg Clumpner, Foresight Consulting

DATE: July 11, 2005

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

After reviewing a number of alternatives for both rate structures and alternative cost-of-service methodologies, Foresight recommends the Sewer Rate Task Force consider approving the following two policy/rate alternatives in developing the City's new sewer rates:

**1. Use a Fixed-Charge Rate Structure** – Continue using a fixed-charge rate structure like the one the City is currently using. This includes:

- Flat rates for all single-family residential customers, with no distinction between metered and flat rate water customers.
- Multi-Family rates based on number of dwelling units.
- Commercial, including schools and churches, and minor industrial rates based on water consumption and the strength characteristics (flow, BOD and TSS) typical of businesses in each of the City's non-residential classes (Sewer Groups 1 through 4).
- Major industrial rates based on monitored and metered sewer effluent, with monthly bills calculated using the number of units and unit costs for each strength component.

For information purposes, the following table shows the number of units, annual revenue, and the customer classes included in the City's current rate structure.

<b>Summary of Sewer Units and Charges (2003)</b>				
<i>City of Modesto</i>				
<b>Billing Class</b>	<b>Units</b>		<b>Annual Charges</b>	
		<i>% of Total</i>		<i>% of Total</i>
<b>Residential</b>				
Residential	51,372	67%	\$8,507,466	38%
Multi-Family	21,817	28%	\$2,484,734	11%
Residential Subtotal	73,189	95%	\$10,992,200	49%
<b>Commercial</b>				
Sewer Group 1	2,284	3%	\$2,139,249	9%
Sewer Group 2	223	0%	\$257,867	1%
Sewer Group 3	53	0%	\$249,209	1%
Sewer Group 4	455	1%	\$916,237	4%
Sewer Only	437	1%	\$65,577	0%
Churches	36	0%	\$9,359	0%
Commercial Subtotal	3,513	5%	\$3,646,384	16%
<b>Industrial</b>	67	0%	\$7,896,903	35%
<b>TOTAL</b>	<b>76,769</b>	<b>100%</b>	<b>\$22,535,487</b>	<b>100%</b>

Note: There are three outdated classes totaling 25 units and < \$9,000 revenue not shown. These three classes will be combined into existing classes.

Although there are many alternatives the City could use to bill its sewer customers for sewer system costs, the following are the reasons we are recommending using a fixed-charge rate structure for Modesto's customers:

- It is simple and easy to understand.
- It is consistent with the City's historical rate practices and the water rate policies.<sup>1</sup>
- It is more reliable from a revenue generation standpoint than a volume-based, conservation-oriented sewer rate structure.

**2. Use a Uniform-Service Charge Approach in Cost-of-Service Rate Calculations** – The City should use this approach because it develops and applies the same flow, BOD and TSS unit costs to all customer classes. This includes:

- Cost allocations based on the measured or best available estimates of total annual flow, BOD, and TSS generated by each customer class.<sup>2</sup>
- Grouping of similar residential and non-residential customers into customer classes but recognizing strength and effluent generation differences between these groupings.
- Charging major industrial, and larger commercial customers as appropriate, based on their individually metered and monitored wastewater strengths, again applying exactly the same unit costs to industrial and all other customer classes.
- Treating all customers as part of the same service area and as using all the system facilities in that all customers do actually use, and have paid for, all collection, treatment and disposal facilities. Therefore, all customers should share in the future regulatory risks and costs of necessary capital improvements based on their proportional use of the system.

The following are the primary reasons we are recommending using this uniform-service charge approach in developing the City's sewer rates:

- It applies exactly the same unit costs for flow, BOD, and TSS to all customers and customer classes<sup>3</sup> and, therefore, is consistent with Prop 218 requirements and cost-of-service principles.
- It is consistent with the City's historical cost allocation practices.
- It protects all customers from the risk of changing regulations and capital improvements that could otherwise have dramatic impacts on any one customer class under a non-uniform cost-of-service approach.

These alternatives and recommendations have been discussed in depth with the Sewer Rate Task Force, including a review of a number of technical issues such as the availability of data, the City's historical rate and cost allocation practices, historical investments by various customer classes, possible changes and rate impacts that might occur in a changing regulatory environment, and legal implications related to compliance with Prop 218.

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<sup>1</sup> While we note that City's new water rate structure makes a distinction between charges to metered and flat rate residential customers, this same approach is not supportable for sewer rates because we have no data that would indicate a difference between the amounts of effluent generated by metered versus flat rate single-family customers. We believe the reason metered residential customer use less water than flat-rate customers is due almost exclusively to landscape watering.

<sup>2</sup> See page 6 of this memo for a more detailed discussion of peak system cost allocation issues.

<sup>3</sup> The combination of unit costs and the estimated strength characteristics for each customer class are based on typical strengths recommended in the State's revenue program guidelines with minor adjustments based on actual flow and loadings received at the City's treatment facilities. That is, the "mass balance" of flow and loadings received at the WWTP will be consistent with those reflected in the sewer rates.

The remainder of this memo provides an overview of some of the rate structure alternatives and cost-of-service allocation methodologies that were reviewed and evaluated during the process of developing these recommendations.

## ***INTRODUCTION***

The Sewer Rate Task Force has recently resolved a number of policy issues related to the sewer rate study. However, the rate structure and actual cost-of-service methodology is still under discussion in terms of the “nuts-and-bolts” of the calculations.

There are two general rate alternative issues that need to be considered:

1. Rate structure alternatives, which deal with the type of charges used to calculate monthly sewer bills for each customer class
2. Cost-of-service alternatives, which are independent of the rate structure and deal with the methodology of how costs are allocated to wastewater customers and treatment parameters (flow, BOD, and TSS)

## ***RATE STRUCTURE ALTERNATIVES***

**Two Primary Rate Structure Alternatives** – Of the many types of rate structures the City could consider, the two relevant rate structure alternatives are:

- **Volume-Based Charges** – which reflect water consumption records of individual customers and are typically combined with a fixed monthly charge.
- **Fixed Charges** – which are based on typical or average levels of effluent generation and strength for various customer classes. Fixed charges do not vary by customer within each customer class nor do they reflect water consumption differences of individual customers.

**Background** – Most California agencies charge residential customers a fixed rate for wastewater collection, treatment, and disposal services instead of rates based on the volume of water used. According to the California Water Resources Control Board, more than 77 percent of California agencies charge fixed rates for sewer services to residential customers. However, many city systems serving large populations tend to charge sewer service rates based on volume. Of the six largest California jurisdictions, the cities of Sacramento and San Jose charge a fixed rate while the cities of Los Angeles, San Diego, San Francisco, and Oakland use a volume-based sewer service charge.

Historically, utilities began charging for services without the benefit of metering water volume, and therefore, utilities had no choice but to charge a fixed rate or fee for water and sewer services. Additionally, agencies that don't provide both water and sewer services typically don't have direct access to water volume data. Therefore, it is much easier for them to charge fixed rates for sewer services rather than volume-based rates.

Fixed rate and volume-based rate structures each have advantages and disadvantages, are intended to achieve different goals and objectives, and represent different rate structures. In general, fixed rates are based on average water use and effluent strengths or equivalent dwelling units and are simple in design, easy to understand, and generate more stable revenues. Because revenues are based on either the averages or the number of dwelling

units (i.e., a typical single family residence) rather than volume, reductions in volume due to water conservation, weather, or other causes do not reduce sewer utility revenues.

In contrast, volume-based rates contribute to, and in fact are typically designed with the intent of encouraging customers to use less water. Customer decisions about their water consumption are based primarily on the individual's habits, economic status, and hard-scape water needs (e.g., lawn area, number of showers, toilets, etc.). However, volume-based sewer charges would mean that Modesto residents would have volume-based charges for both water and sewer. As a result, water consumption would be the dominant factor in the size of the customer's combined water and sewer service bill.

## 1. Fixed Charge Rate Structures

Although fixed-charge residential rates can be set in a number of ways, including block rates and combined water and sewer bills, the most logical and most commonly used approach is to use the average water consumption. This average consumption can factor in the estimated effluent factor and/or be based on the average winter usage.

The data for the typical flow for a single family residence in Modesto needs to be updated as a part of the sewer rate analysis. However, the water consumption data used for the water rates adopted last fall indicated that flat-rate (unmetered) water customers used approximately 17% more than metered customers. Possibly the more important question in developing sewer rates for Modesto is how the winter consumption for flat-rate and metered residential customers compares. If the more recent data indicates the relative levels of effluent generated by flat-rate and metered customers is quite different, that would suggest the City should consider assessing a different fixed charge sewer rate to flat and metered customers.

Since sewer system costs are typically largely made up of fixed costs, using fixed charges and average costs has the advantage of providing a more reliable (less variable) revenue source. The down-side is that customers who use very little water may complain that they are paying as much as customers that consume large amounts of water, such as larger houses with many occupants.

## 2. Volume-Based Rate Structures

**Alternative Volume-based Rate Structures for Residential Customers** – Volume-based charges for residential customers can be structured several different ways. Most jurisdictions group residential customers into one rate class, assuming that the wastewater strength, biological oxygen (BOD), and total suspended solids (TSS) do not vary significantly among residential customers.

Volume-based sewer service charges are generally set as a charge per hundred cubic feet (hcf), or one unit, of water consumed. Agencies can apply these sewer service charges as a uniform volume rate or as a block rate. Although block rates is a commonly used methodology for water rates, it is quite uncommon for sewer rates and therefore is probably not a reasonable rate alternative for Modesto.

Although residential customer charges are based on estimated wastewater strengths, large industrial and food processing customers who have their effluent individually metered and monitored for strength characteristics are charged separately for each constituent (flow, BOD and TSS).

**The Use of Effluent Factors** – Because not all water used by a customer is discharged to the sewer system, volume-based sewer service charges often incorporate an "effluent factor" that estimates the percentage of the metered water volume that is returned to the sewer system. The volume-based sewer charge is per hcf of water consumption but includes (i.e., accounts for) the effluent factor. For example, if a single-family residential customer has an effluent factor of .80, this assumes that 80% of every unit of water used by the customer is returned to the sewer system. Since different customer classes have different effluent factors, these differences are built in to the volume-based charge for each customer class.

According to a recent Black & Veatch Wastewater Rate Study for the City of San Francisco, most California agencies use a flow factor of 60 to 70 percent, although the Los Angeles flow factors range from 80 percent in dry winters to 92 percent in wet winters.

**Winter Water Use as the Basis for Sewer Charges** – Many California agencies that use a volume-based sewer rate base their residential charges on water consumption during the winter months when outdoor irrigation is at a minimum and, therefore, the highest percentage of the water is returned to the sewers. Winter is typically defined as the lowest three or four months of water consumption. The use of winter consumption is typically restricted to residential customers, while non-residential customers that discharge larger volumes of wastewater and/or higher levels of pollutants are billed based on either their metered effluent flow and strength, average flow and strengths for their customer class, or by a multiplier of the typical (average) equivalent dwelling units.

### 3. Other Rate Structure Considerations

**Conservation Issues in Redesigning Sewer Rates** – Using a volume-based sewer rate structure to meet water conservation goals has two problems. First, a consumer's use of sewer services generally hinges on their decision to use potable water, and they otherwise do not control the amount of effluent they generate. Because of this, the water rate structure is a more direct mechanism to meet water conservation goals than the sewer rate structure.

Second, because sewer service systems have high fixed costs, short-run decreases in water consumption result in a shortfall in the required revenues. In the long-run, decreases in effluent volume spreads fixed costs over fewer units of flow, resulting in a higher cost per unit of service (though the same may not be true for BOD and TSS). Therefore, customers who reduce water use also reduce wastewater volume, with the result that the cost per unit of sewer flow increases. After this adjustment, customers often realize there is little or no actual decrease in their sewer bill.

**Using Base Rates to Cover Fixed Costs** – Agencies that base sewer service charges on the volume of water used often apply a base rate or fixed monthly charge in addition to the volume rate. The fixed charge is often intended to recover customer service and administrative costs. Fixed charges can include:

- A minimum volume of water consumption, typically set well below the average residential consumption level
- Minimal administrative and overhead charges in order to not penalize low-volume customers and to emphasize the water-conservation aspect of the rate structure

## ***COST-OF-SERVICE ALTERNATIVES***

There are a number of cost-of-service variations that should be considered, each of which could be used in combination with either a volume-based or fixed-charge rate structure:

**Uniform Service Approach** – Under this approach, all customers are considered a part of the entire sewer collection-treatment-disposal system as opposed to treating individual customer classes as if they were the exclusive customers of any specific system components. For example, the Sewer Rate Task Force has discussed whether the cannery seg customers should be considered the sole customers of the City's 6.5-mile long outfall line and the Jennings Road Treatment Facility. The conclusion was that (1) they are not the sole users of these facilities, and (2) these facilities have been jointly funded by all system customers, not just the cannery seg customers. This is a strong argument for using a uniform service approach rather than separating out, and treating individual customer classes differently.

Additionally, the uniform service approach is consistent with the City's water rate policies and would avoid several problems that would occur if each system component was allocated to each customer class. For example, a uniform service approach does not factor in seasonal peak demands of different customer class, which would be a significant change from the City's historical rate practices.

**Non-Uniform System Approach** – In contrast to the uniform service approach, a non-uniform system approach could treat cannery seg customers as if they were the exclusive users of the City's 6.5-mile long outfall line and the Jennings Road Treatment Facility. This approach could also allocate cannery seg customers smaller or a zero percent share of costs for other facilities such as the primary treatment plant.

As the Sewer Rate Task Force has discussed, this may appear to offer short-term advantages to wet industry or other customers. Unfortunately, it also exposes those customers to some substantial risks, including major rate increases should one or more of the larger customers withdraw from the system or if the SWQCB significantly increases the permit requirements related to land-application or adopts other more stringent discharge requirements.

**Peak System Cost Allocation** – "Peak design" factors can be an important factor in how capital costs are allocated. Customers like food processors often generate significant amounts of effluent only during the summer months, and nothing the rest of the year. Conversely, there is also a considerable peak in flow caused by the inflow and infiltration of rain water into the system. This could be attributed largely to the residential classes by virtue of their relatively large area. Peaking factor can have a significant impact on how the system is sized (designed) to handle those peaks. Currently, the City uses an allocation methodology that treats all customer classes equally, without regard to peaking factors.

Full consideration of those peaking factors could result in higher sewer charges for customers with high peaking factors, such as wet industry customers. Higher charges to high-peak customers would also reduce the total amount paid by customer classes with minimal peak uses, such as commercial customers. When cities adopt cost-of-service goals and objectives, the use of peaking factors must be balanced against those overall goals and objectives. AWWA rate methodologies do not mandate the inclusion of peaking factors, although AWWA does recognize it as a valid factor in setting rates.

## ***PROP 218 COMPLIANCE***

Proposition 218 (Prop 218), generally known as the "the right to vote on new taxes" law, requires that any fee imposed as an incident of property ownership shall not "...exceed the proportional cost of the service attributable to the parcel." Municipal sewer utilities, such as the City of Modesto, have the choice of either taking a legally conservative approach to this law by assuming it applies to any changes in its sewer rates, or assuming it does not apply. The City

has approached the recent changes to the water rates by assuming Prop 218 does apply, or at least decided to comply with Prop 218 requirement whether or not they apply, and that this law furthermore includes a prohibition against any water (or sewer) utility customer or customer class subsidizing any other customer(s) or customer class.

To address the concern about possible cross-class subsidies, the sewer rate methodology the City chooses to use will need to conform to commonly accepted industry rate-making practices by providing cost-of-service based rates for each customer class. This includes the AWWA and State revenue program guidelines discussed below.

## **RATE METHODOLOGIES: AWWA AND STATE REVENUE PROGRAM GUIDELINES**

**American Water Works Association (AWWA)** – The AWWA Rate Manual (M1) presents a few key principles that are relevant to the sewer rate study, and which were included in the final report for the water rate study adopted by the City last fall:

*A water rate structure is a fee or schedule of fees designed, among other things, to recover the utility's costs. The design, however, is a function of many diverse and sometimes competing objectives. A properly selected rate structure should support and optimize a blend of various utility objectives and should work as a public information tool in communicating these objectives to customers.*

*No one rate structure meets all utility objectives equally, and not all objectives are valued the same by the utility or its customers. Rate objectives common to many utilities and their customers include*

- Yielding necessary revenue in a stable and predictable manner*
- Minimizing unexpected changes to customer bills*
- Discouraging wasteful use and promoting justified uses*
- Promoting fairness and equity*
- Maintaining simplicity, certainty, convenience, feasibility, and freedom from controversy*

*Recognizing and recovering the costs associated within different types of demand from appropriate customer classes avoids subsidies among customer classes and minimizes potential subsidies within customer classes<sup>4</sup>.*

AWWA also considers uniform (fixed rate) charges to be simple, generally perceived as equitable because all rate payers pay the same price for each unit of use, and as providing relatively stable revenues.

In view of these general rate principles, a fixed-charge sewer rate structure appears to be consistent with AWWA methodologies and principles.

**State Revenue Program Guidelines** – The State provides a general rate methodology that has historically been applied to almost all municipal wastewater treatment systems. This was because almost every treatment plant received Federal Clean Water Grant funding when they were constructed, upgraded or expanded. However, most plants have long since retired those obligations and now rely on non-Federal sources of funding.

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<sup>4</sup> Manual of Water Supply Practices (M1), Principles of Water Rates, Fees, and Charges, published by the American Water Works Association (AWWA), Chapter 9.

As the local funding agency for the Clean Water program, the State Water Resources Control Board has historically had an oversight role in reviewing and approving revenue programs. As long as the programs submitted to the State were generally compliant with State guidelines, the State would approve those rate structures and revenue programs. "Generally compliant" typically meant there were no overt subsidies of one customer class over another, sewer revenues were being used to support the O&M and capital requirements of the sewer enterprise (and not the city's general fund), and cost allocations, particularly for capital facilities, were fairly consistent with the "guidelines" the state provided.

Most revenue programs today are no longer even submitted to the State for review unless the City is applying for State Revolving Fund Loan proceeds or has outstanding Clean Water Grant funding. Because of this, the State's guidelines are not a significant concern with respect to how Modesto's sewer rate program is developed. However, the details of the cost allocations and rate structure will be consistent enough so that the State would not have a concern if the revenue program was submitted for their review.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-413**

**A RESOLUTION APPROVING THE SOLICITATION OF BIDS TO REMOVE  
TWO STRUCTURES LOCATED AT 2500 SYLVAN AVENUE FOR THE  
SYLVAN AVENUE WIDENING ROADWAY PROJECT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled, "Sylvan – South Side Symphony Park," and

WHEREAS, two existing structures need to be removed or demolished prior to the roadway widening, and

WHEREAS, the City recently purchased both structures, and

WHEREAS, the City estimates that moving the structures would be less expensive than demolition, and

WHEREAS, staff requests authority to formally solicit bids for the removal of both structures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the solicitation of bids to remove two structures located at 2500 Sylvan Avenue for the Sylvan Avenue Widening Roadway project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-414**

**A RESOLUTION AMENDING THE SYLVAN – SOUTH SIDE SYMPHONY  
PARK BUDGET BY \$540,000 FROM CFD RESERVES TO FULLY FUND THE  
SYLVAN AVENUE ROADWAY WIDENING PROJECT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled “Sylvan – South Side Symphony Park,” and

WHEREAS, two existing structures need to be removed or demolished prior to the roadway widening, and

WHEREAS, the City recently purchased both structures, and

WHEREAS, concurrent with this resolution, by Resolution No. 2005-413, Council authorized staff to formally solicit bids for the removal of both structures, and

WHEREAS, once the structures are removed the City will solicit formal bids to widen the south side of Sylvan Avenue, and

WHEREAS, a budget adjustment of \$540,000 from CFD Reserves is needed to fully fund the Sylvan Avenue Roadway Widening project, and

WHEREAS, when the State of California releases \$285,000 held in Escrow, the funds will backfill CFD Reserves,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to allow for structure removal and to fully fund the Sylvan – South Side Symphony Park project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-415**

**A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2003-624  
ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR  
PLANNED DEVELOPMENT ZONE, P-D(563). (PRATT)" (SIMVOULAKIS)**

WHEREAS, the Modesto City Council, by Ordinance No. 3337-C.S., which was introduced on November 25, 2003, finally adopted on December 11, 2003, and which became effective on January 10, 2004, granted Planned Development Zone, P-D(563), to allow a two-story professional office building, property located on the east corner of 16<sup>th</sup> and G streets, and

WHEREAS, City Council Resolution No. 2003-624 adopted by the City Council on November 25, 2003, approved the development plan for Planned Development Zone, P-D(563), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(563), was filed by George Simvoulakis on March 11, 2005, to allow the office building to be developed as a condominium, and

WHEREAS, after a public hearing held on June 20, 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. 2005-31, that an amendment to P-D(563) as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed office condominium development is consistent with the expanding commercial core of downtown Modesto.
2. The proposed office development is consistent with the current General Plan land use designation for the site.

3. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
4. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
5. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
6. There are no specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project as appropriate.

WHEREAS, said matter was set for a public hearing of the City Council on August 9, 2005, at 5:30 p.m., 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 George Simvoulakis for an amendment to Planned Development Zone, P-D(563) to allow for an office condominium should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-31 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3393-C.S. on August 9, 2005, amending Section 2 of Ordinance No. 3337-C.S. to allow for an office condominium including uses allowed in the Professional Office, P-O Zone.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 and 2 of Modesto City Council Resolution No. 2003-624 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(563). (Pratt)" are hereby amended to read as follows:

“SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(563), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Commercial Office Building 16<sup>th</sup> and G Streets” as amended in red, stamped approved by the City Council.
2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Director. Provision shall be made for the installation and maintenance of one deciduous shade-giving tree for every eight parking stalls, evenly distributed. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
3. Prior to the issuance of Certificate of Occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.
4. Prior to the issuance of Certificate of Occupancy, a six-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on centers shall be constructed along the southeast property line.
5. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.
6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the City Engineer or designee and/or the utility companies, and easements for utility lines to remain shall be dedicated.
7. 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, including, but not limited to, improving the alley access to/from G Street to the City’s Standard for a commercial drop-curb type, 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. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.
10. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.
11. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the City Engineer or designee.
12. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Public Works Director; or designee to provide on-site treatment of stormwater 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.
13. 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.
14. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.
15. All signs shall comply with the sign requirements of the P-O Zone.



16. 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.
17. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
18. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.”

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(563):

The entire construction program be accomplished in one phase, construction to begin on or before June 20, 2008 and completion to be not later than June 20, 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 amending Planned Development Zone, P-D(563), becomes effective.

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-416**

**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(563), TO ALLOW AN OFFICE CONDOMINIUM, PROPERTY LOCATED ON THE EAST CORNER OF 16<sup>TH</sup> AND G STREETS (SIMVOULAKIS)**

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, on November 25, 2003, by Ordinance No. 3337 C.S., the City Council report for P-D(480) to P-D(563) for a two-story downtown professional; office building and surface parking on the east corner of 16<sup>th</sup> and G Streets, and

WHEREAS, George Simvoulakis has proposed that the P-D(563) Zone be amended to rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), in the City of Modesto (“the project”) to allow the approved office building to be developed as an office condominium, 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 2003-82 reviewed the proposed

P-D(563) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR (“Master EIR”), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on July 20, 2005, the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on August 9, 2005, 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 P-D(563) project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
2. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
3. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.

4. There are no specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project as appropriate.

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 9<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**Initial Study**  
**EA/C&ED 2003-82**

City of Modesto  
Initial Study

**P-D –16<sup>th</sup> Street Office**  
**EA/C&ED 2003-82**  
September 18, 2003

**I. PURPOSE**

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

**II. PROJECT DESCRIPTION**

- A. Project title:  
P-D – 16<sup>th</sup> Street Office
- B. Lead agency name and address:  
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:  
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:  
East corner of 16<sup>th</sup> and G Streets.
- E. Project Sponsor:  
Mike Pratt, 1720 G Street, Modesto California 95354
- F. General Plan Designation:  
Redevelopment Planning District
- G. Current Zoning:  
P-D(480)
- H. Description of Proposed Project:  
This is an application to rezone P-D(480) to Planned Development to allow for the development of a 22,726-square-foot, two-story office building. The project is proposed to gain access to 16<sup>th</sup> Street via a new drive approach at the south corner of the property and access to G Street via the existing alley at the north corner of the property. The applicant is proposing 40 parking stalls in conjunction with this development.
- I. Surrounding land uses:

The project is surrounded by 16<sup>th</sup> Street to the northwest, a commercial parking lot, multi-family residence and vacant lot to the northeast, a single-family residence to the southeast, and G Street to the southwest.

- J. Other public agencies whose approval is required:  
None

### **III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR**

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

#### **A. Traffic and Circulation**

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity. However, the number of parking spaces proposed is five fewer than what is required by City Standards. This was determined to have a less than significant impact on traffic and circulation, as the overall traffic volume generated by this project is still consistent with the assumptions in the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

#### **B. Degradation of Air Quality**

The air quality impacts for this project are directly related to the traffic impacts. Since the traffic impacts are less than significant, there would be no change needed in the Degradation of Air Quality section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

#### **C. Generation of Noise**

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. This project will not generate noise greater than what was anticipated by the EIR, in that it is in an area that was anticipated to transition into high-intensity office and commercial uses. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

#### **D. Loss of Productive Agricultural Land**

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

#### **E. Increased Demand for Water Supplies**

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. The proposed



office complex is consistent with the General Plan designation for the site in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are still valid.

**F. Increased Demand for Sanitary Sewer Services**

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are still valid.

**G. Loss of Sensitive Wildlife and Plant Habitat**

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are still valid.

**H. Disturbance of Archaeological and Historic Sites**

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that the area where the project is proposed, 16<sup>th</sup> and G Streets, is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

**I. Increased Demand for Storm Drainage**

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. For example, the project will provide on-site treatment of storm water in accordance with the City's guidance manual for new development stormwater quality control measures. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

**J. Flooding and Water Quality**

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

**K. Increased Demand for Parks and Open Space**

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. The proposed two story office building is consistent with the General Plan in terms of land use and intensity. In addition, the proposed office is relatively high in density, thereby promoting the reservation of open space. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

**L. Increased Demand for Schools**

This project, being non-residential, would not generate any additional demand for schools. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

**M. Increased Demand for Police Services**

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed office building is consistent with the General Plan with regard to land use and intensity. Furthermore, office buildings generally do not generate very much demand for police services. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are still valid.

**N. Increased Demand for Fire Services**

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

**O. Generation of Solid Waste**

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, the site plan for the proposed office project was referred to the appropriate waste management company and they did not express any concerns with the proposal. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are still valid.

**P. Generation of Hazardous Materials**

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This two story office project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, general offices typically do not generate much hazardous material. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages

V-16-1 through V-16-15) are still valid.

**Q. Landslides and Seismic Activity**

This proposed office development will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR, in that it is consistent with the general plan designation for the site. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.


**R. Energy**

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. The proposed office building at 16<sup>th</sup> and G Streets is consistent with the general plan designation for the site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

**IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS**

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:

  
Josh Bridegroom,  
Assistant Planner

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-417**

**A RESOLUTION ESTABLISHING A USER FEE FOR THE TENNIS COURT  
LIGHTING SYSTEM LOCATED AT DOWNEY PARK**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has installed a SkyLogix lighting system for tennis court lighting at Downey Park, and

WHEREAS, the use of the lighting system has been determined to cost \$5.00 per hour, per set of tennis courts, and

WHEREAS, the Finance Committee met on June 27, 2005, and supported the request for a user fee, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on August 9, 2005 in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, on said date and time said duly noticed public hearing of the City Council was held for the purpose of receiving public comment on the proposed user fees for the tennis court lighting system located at Downey Park,

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

SECTION 1. FEE. An hourly user fee for the tennis court lighting system located at Downey Park is established at \$5.00 per hour.

SECTION 2. EFFECTIVE DATE. The fee established by this resolution shall become effective on or after September 1, 2005.

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 August 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-418**

**A RESOLUTION APPOINTING BILL ZOSLOCKI TO THE AIRPORT  
ADVISORY COMMITTEE**

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

WHEREAS, the Economic Development Committee met on August 8, 2005, and recommended appointment of BILL ZOSLOCKI to the Airport Advisory Committee.

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

SECTION 1. BILL ZOSLOCKI is hereby appointed to the Airport 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 Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHK, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-419**

**A RESOLUTION APPOINTING JULIE WALTON 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 August 8, 2005, and recommended appointment of JULIE WALTON 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. JULIE WALTON, 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 6th day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-420

A RESOLUTION APPOINTING MARY DEWING TO THE TUOLUMNE RIVER  
REGIONAL PARK CITIZENS ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on August 8, 2005, and recommended appointment of MARY DEWING to the Tuolumne River Regional Park Citizens Advisory Committee.

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

SECTION 1. MARY DEWING is hereby appointed to the Tuolumne River Regional Park Citizens 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 Tuolumne River Regional Park Citizens Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zaur  
JEAN ZAUR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-421**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO ESTABLISH  
CITY OF MODESTO COMMUNITY FACILITIES NO. 2005-1 (HETCH HETCHY)  
AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN SAID COMMUNITY  
FACILITIES DISTRICT**

WHEREAS, Shelter Cove Community Church, Inc., (the "Owner"), the owner of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the "Property"), has filed a written petition with the City of Modesto (the "City") to establish the City of Modesto Community Facilities No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A hereto, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the cost of the services listed in Appendix A hereto (the "Services"); and

WHEREAS, the Owner has heretofore submitted to the City an application to form the Community Facilities District and has advanced to the City the deposit required pursuant to the City's Policies & Procedures for the Formation, Annexation, and Administration of

Communities Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982 (the “City’s CFD Policies and Procedures”); and

WHEREAS, the petition submitted by the Owner complies with the requirements of Section 53319 of the Act and the City’s CFD Policies and Procedures; and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax and (in the case of the Facilities and the Incidental Expenses) the issuance of bonds, provided that the levy of the special tax and the issuance of the bonds are approved at an election to be held within the boundaries of the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District shall be as depicted on the map of the proposed Community Facilities District which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the Community Facilities District and record it with all proper endorsements thereon with the County Recorder of the County of Stanislaus within fifteen days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

SECTION 3. The name of the proposed Community Facilities District shall be “City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy).”

SECTION 4. The Facilities and Services proposed to be provided within the Community Facilities District are each facilities or services, as the case may be, which the City is authorized by law to construct, acquire, own and operate, or to provide. This City Council hereby finds and determines that the descriptions of the Facilities and the Services contained herein is sufficiently informative to allow taxpayers within the proposed Community Facilities District to understand what the funds of the Community Facilities District may be used to pay for. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the Community Facilities District and levying and collecting a special tax within the Community Facilities District.

SECTION 5. Except where funds are otherwise available, it is the intention of this City Council to levy annually in accordance with the procedures contained in the Act a special tax, secured by recordation of a continuing lien against all non-exempt real property in the Community Facilities District, sufficient to pay for: (i) the Facilities, the Incidental Expenses and the Services and (ii) the principal of and interest on and other periodic costs with respect to the bonds issued to finance the Facilities and the Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the Community Facilities District and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) in connection with the bonds. The Facilities may be financed on a direct payment basis or through the issuance of the bonds. The rate, method of apportionment and manner of collection of the special tax are described in detail in Appendix B attached hereto and incorporated herein as though set forth at

length (the "Rate and Method"). Appendix B allows each landowner and resident, if any, within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2060-2061 tax year and (ii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten percent (10%).

This City Council hereby determines the Rate and Method to be reasonable. The special tax is apportioned to each parcel on the basis of its tax zone, land use and area pursuant to Section 53325.3 of the Act; and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special tax, this City Council shall, on behalf of the Community Facilities District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in the Rate and Method, to the extent necessary upon the remaining property within the Community Facilities District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section 5.

SECTION 6. A public hearing (the "Hearing") on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on October 11, 2005, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 95353. Should this City Council determine to form the

Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portion thereof owned within the Community Facilities District. Ballots for the special election may be distributed by mail or by personal service.

SECTION 7. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed Community Facilities District, may appear and be heard.

SECTION 8. Each officer of the City who is or will be responsible for providing the Facilities or Services within the proposed Community Facilities District, if it is established, is hereby directed to study the proposed Community Facilities District and, at or before the time of the Hearing, file a report with this City Council containing a brief description of the Facilities or Services, as the case may be, which will in his or her opinion be required to meet adequately the needs of the proposed Community Facilities District and an estimate of the cost of providing those Facilities or Services and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person

or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by this City Council, with or without interest.

SECTION 10. The Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing. The Clerk is further directed to mail a copy of the Notice to each of the landowners and registered voters, if any, within the boundaries of the Community Facilities District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed Community Facilities District and a description of the proposed voting procedure for the election required by the Act.

SECTION 11. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## APPENDIX A

### LIST OF FACILITIES

#### Water System:

Water system improvements include, but are not limited to, wells, distribution pipelines, wellhead treatment systems, surface water supply pipelines, tanks, booster pumps and land acquisition. The wellhead treatment system may be financed through acquisition, construction, lease, lease-purchase, or installment-purchase arrangement. A proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

#### Wastewater System:

Wastewater system improvements may include, but are not limited to, distribution pipelines, land acquisition, lift station(s) and force main(s).

#### Transportation System:

Transportation system improvements include, but are not limited to, land acquisition, arterials and collector streets and round-abouts.

#### Storm Drain System:

Storm drain system improvements include, but are not limited to, land acquisition, storm drainage facilities including pump station, dual-use basin and landscaping, fencing, lift stations, force mains and gravity lines.

#### Parks:

Parks improvements may include, but are not limited to, land acquisition and the construction of a community park, neighborhood parks, landscaped medians and/or parkways.

### LIST OF SERVICES

Maintenance of parks, parkways and open space (including bike trails), storm drainage basins and related facilities and police and fire services

#### Administration:

The fees and expenses of the City in any way related to the establishment or administration of CFD No. 2005-1 and any bonds associated therewith, including, but not limited, administrative costs, contract management, accounting, supervision duties, design, engineering, construction management, inspection and other costs associated with construction or operation of the facilities.



## APPENDIX B

### CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2005-1 (Hetch Hetchy) [herein "CFD No. 2005-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2005-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2005-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2005-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

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

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

**“Annual Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year to (i) pay principal and interest on Bonds, (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) create or replenish reserve funds, (iv) cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2005-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2005-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

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

**“Annual Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year, (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year, and (iv) pay debt service on Bonds to the extent permitted in the Bond documents.

**“Assessor’s Parcel”** or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

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

**“Association Property”** means any property within CFD No. 2005-1 that is owned by a homeowner association or property owner association, including any master or sub-association. Notwithstanding the foregoing, if a homeowner association owns the land area under the pad of a residential structure, the Administrator shall determine the Acreage under the pad of the building and such Acreage shall be categorized as Single Family Attached Property or Single Family Detached Property, as appropriate, and shall not be designated as Association Property.

**“Authorized Facilities”** means those facilities that are authorized to be funded by CFD No. 2005-1.

**“Authorized Services”** means those services that are authorized to be funded by CFD No. 2005-1.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2005-1 related to Authorized Facilities.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2005-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2005-1.

**“County”** means the County of Stanislaus.

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

*For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year. However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

*For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure.

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

**“Improvement Area”** means a geographic area that, upon annexation into CFD No. 2005-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

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

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

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

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

**“One-Time Facilities Special Tax”** means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property or, for Other Property for which a building permit is not required, prior to a grading permit being issued.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2005-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means (i) an Assessor’s Parcel in CFD No. 2005-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation), (ii) a Successor Parcel that is being further subdivided for purposes of determining the Maximum Special Taxes pursuant to Section C below, or (iii) more than one Assessor’s Parcel proposed to be annexed into the CFD as part of a single annexation, the Maximum Special Taxes assigned to which will be aggregated and redistributed to land uses within such Assessor’s Parcels if such aggregation is requested by the developer processing the annexation and/or preferred at the sole discretion of the City.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

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

**“Public Property”** means any property within the boundaries of CFD No. 2005-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Shelter Cove Community Church Property”** means that Parcel identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003, owned by Shelter Cove Community Church, a California non-profit corporation, and designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Shelter Cove Community Church Property.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

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

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

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

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

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2005-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2005-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Development Plan are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues. When such a trade occurs, the Administrator will recalculate the Maximum Special Taxes and revise Attachment 2.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2005-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes for each Original Parcel.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be expanded to include additional Original Parcels that annex to CFD No. 2005-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2005-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax

Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2005-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Final Map.

### **C. CALCULATING MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2005-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2005-1 as a result of future annexations.

#### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2005-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

#### **2. Successor Parcels**

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

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

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

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

**Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

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

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

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;

**Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;



- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

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

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

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2007-08, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

### 3. Annual Maintenance Special Tax

Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

## E. METHOD OF LEVY OF THE SPECIAL TAX

### 1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2005-1 and shall be collected as set forth in Section F below.

### 2. Annual Facilities Special Tax

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2005-1 as follows:

*Step 1:* The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

*Step 2:* If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

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

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:* The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:* If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:* If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

### **F. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2005-1 (or, for Other Property for which a building permit is not required, prior to a grading permit being issued), and shall be immediately delinquent if not so paid. In the case of Shelter Cove Community Church Property, the One-Time Facilities Special Tax shall be paid at the time additional property is annexed into the CFD or when a building permit is issued for new construction of a structure on Shelter Cove Community Church Property, whichever occurs later.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2005-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the

City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Association Property or Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Special Tax may be levied on Shelter Cove Community Church Property unless and until additional property is annexed into the CFD.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$1,740,000 in 2005 dollars, which shall increase on January 1, 2006, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2005-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (*the “Remaining Facilities Amount”*).

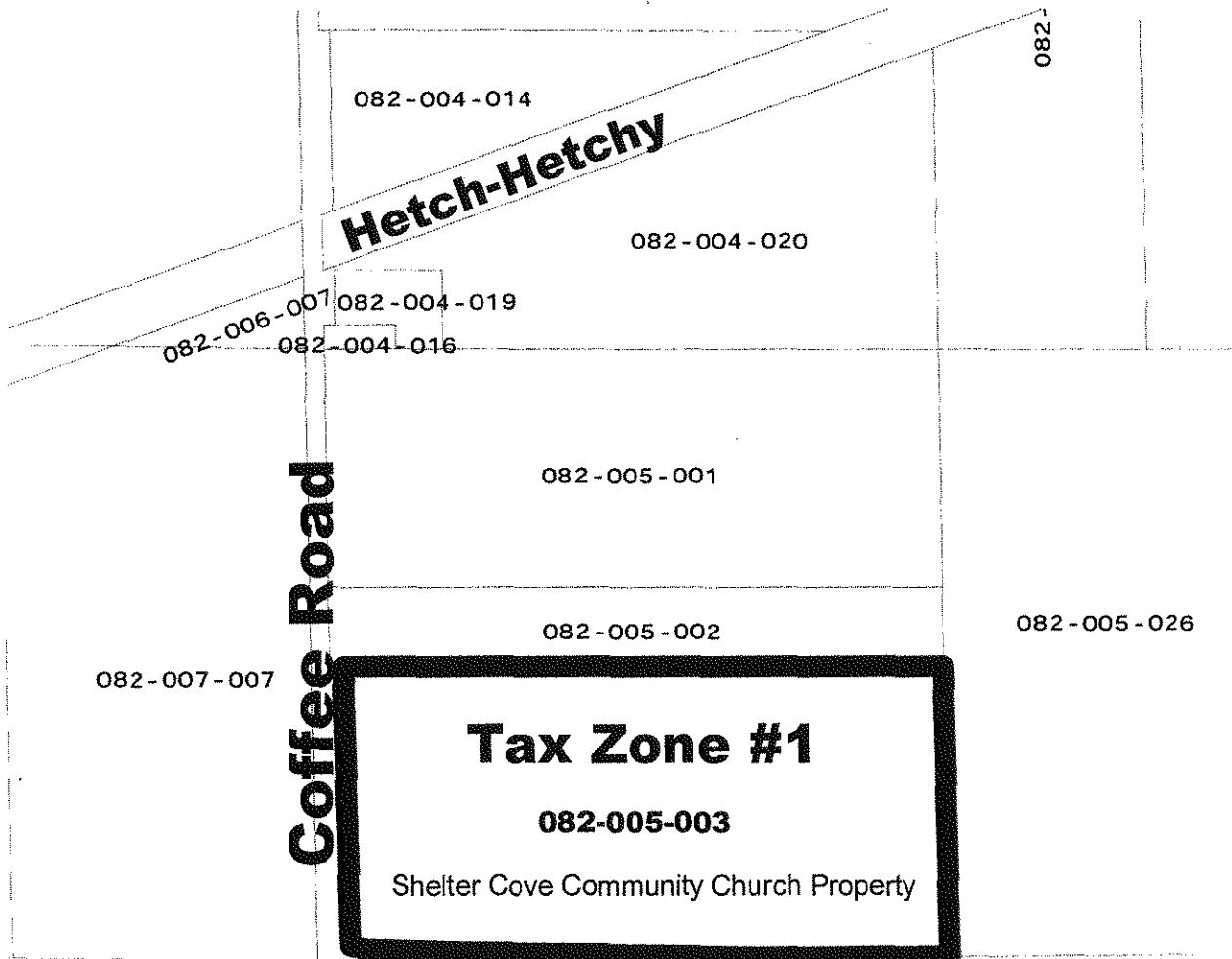
- Step 6.** Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "*Reserve Fund Credit*").
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

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

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH-HETCHY)  
IDENTIFICATION OF TAX ZONES



200 0 200 400 Feet



ATTACHMENT 2

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH HETCHY)

MAXIMUM SPECIAL TAXES ASSIGNED TO EACH  
ORIGINAL PARCEL WITHIN EACH TAX ZONE

Tax Zone	APN	Fiscal Year 2006-07 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2006-07 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2006-07 Maximum Annual Maintenance Special Tax [3]
1	082-005-003	\$1,739,130	\$179,046	\$100,572

1. Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
2. Beginning in Fiscal Year 2007-08 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-422**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO  
INCUR BONDED INDEBTEDNESS IN THE AMOUNT NOT TO EXCEED  
\$150,000,000 WITHIN PROPOSED CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

WHEREAS, pursuant to a resolution adopted on the date hereof (the "Companion Resolution"), this City Council has instituted proceedings for the possible formation of the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Companion Resolution, and all appurtenances and appurtenant work associated with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the costs of the services listed in Appendix A to the Companion Resolution (collectively, the "Services"); and

WHEREAS, this City Council estimates that the amount of bond proceeds required to finance the Facilities and Incidental Expenses is approximately \$150,000,000; and

WHEREAS, in order to finance the Facilities and Incidental Expenses, subject to the formation of the Community District and to the satisfaction of all applicable

requirements of law, this City Council intends to authorize the issuance of bonds in the maximum aggregate principal amount of \$150,000,000, the repayment of which is to be secured by special taxes levied in accordance with the Act on all property in the Community Facilities District, other than those properties exempted from taxation in the rate and method of apportionment set forth in Appendix B to the Companion Resolution;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. It is necessary to incur bonded indebtedness within the boundaries of the Community Facilities District in an amount not to exceed \$150,000,000 to finance certain of the costs of the Facilities and Incidental Expenses, as permitted by the Act.

SECTION 3. The indebtedness will be incurred for the purpose of financing the costs of the Facilities and the Incidental Expenses, including, but not limited to, the funding of reserve funds for the bonds, the financing of costs associated with the issuance of the bonds and all other costs and expenses necessary to finance the Facilities which are permitted to be financed pursuant to the Act.

SECTION 4. It is the intent of this City Council to authorize the sale of bonds in one or more series, in the maximum aggregate principal amount specified in Section 2, and at a maximum interest rate not in excess of 12 percent per annum, or a higher rate not in excess of the maximum rate permitted by law at the time that the bonds are issued. The term of the bonds of each series shall be determined pursuant to a resolution of this

City Council authorizing the issuance of the bonds of such series, but such term shall in no event exceed 40 years from the date of issuance of the bonds of such series, or such longer term as is then permitted by law.

SECTION 5. A public hearing (the "Hearing") on the proposed debt issue shall be held at 5:30 p.m., or as soon thereafter as practicable, on October 11, 2005, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 93535 and shall be combined with the public hearing called for in the Companion Resolution.

SECTION 6. At the time and place set forth in this Resolution for the Hearing, any interested persons, including all persons owning land or registered to vote within the Community Facilities District, may appear and be heard.

SECTION 7. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-423**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT  
BETWEEN THE CITY OF MODESTO AND SHELTER COVE COMMUNITY  
CHURCH, INC. FOR CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2005-1 (HETCH HETCHY), AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Shelter Cove Community Church, Inc. (the “Developer”) has filed with this City Council a petition requesting the formation of a community facilities district and the issuance of bonds to finance and maintain certain infrastructure, and

WHEREAS, the Developer has agreed to advance all funds necessary to form the proposed community facilities district, and

WHEREAS, the parties agreed to enter into an Advanced Funding 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 becomes 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 between the City of Modesto and Shelter Cove Community Church, Inc., is hereby approved and that the City Manager 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 6<sup>th</sup> day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**ADVANCED FUNDING AGREEMENT  
FOR THE CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH HETCHY)**

THIS ADVANCED FUNDING AGREEMENT FOR THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY) (this "Agreement"), dated as of \_\_\_\_\_, 2005, is entered into by and between the CITY OF MODESTO, a municipal corporation (the "City"), and SHELTER COVE COMMUNITY CHURCH, a California non-profit corporation (the "Developer").

***RECITALS:***

A. The City has requested that the Developer fund the formation of a community facilities district to be known as "City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy)" (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 North Beyer 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: Shelter Cove Community Church  
1620 N. Carpenter Road, Suite D-49  
Modesto, California 95351  
Attn: Dave Olsen, Facilities Development Manager

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: CFD Administrative Officer

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 5 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 3 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. 2005-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_ day of \_\_\_\_\_, and SHELTER COVE COMMUNITY CHURCH, a California non-profit 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 W. BRITTON, City Manager

ATTEST:

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

APPROVED AS TO FORM:  
MICHAEL D. MILICH, City Attorney

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

SHELTER COVE COMMUNITY CHURCH,  
a California non-profit corporation

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

Name: \_\_\_\_\_  
Peggy Britt

Title: \_\_\_\_\_  
CFU

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. 2005-424**

**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. 9)**

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, 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 “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village

One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; and the map entitled “Annexation Map No. 5 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 2; and the map entitled “Annexation Map No. 6 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 7; and the map entitled “Annexation Map No. 7 of Community Facilities District No. 2004-1 (Village One #2), As Amended,” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 12; and the map entitled “Annexation Map No. 8 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 20.

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. 9 of Community Facilities District No. 2004-1 (Village One #2), of the 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 11, 2005, 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 6th day of September 2005, by Councilmember Jackman,

who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

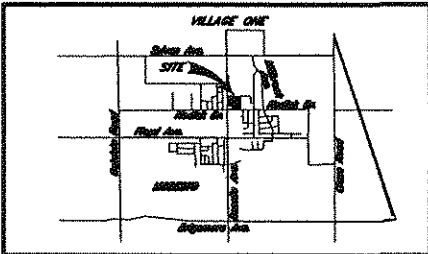
ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT A  
ANNEXATION NO. 9 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)  
Proposed Boundary Map



**VICINITY MAP**

NOT TO SCALE

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 2005, 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 LINDGREN, 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. 9 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 \_\_\_\_\_, 2005, by its Resolution No. \_\_\_\_\_.

JEN ZHAR, City Clerk

By \_\_\_\_\_  
Print Name



(in feet)  
1"=100'

**BASIS OF BEARINGS**

The bearing of N 00°43'00" W between GPS monuments 2527 and 2527 as shown on the "Extended City of Modesto Record of Survey" recorded March 30, 1995 in Book 22 of Surveys of Page 97, Stanislaus County Records, was used as the basis for all bearings shown hereon.

Distances shown hereon have been converted from GHD to Ground.

- Property to be annexed

Filed in the Office of the City Clerk of the City of Modesto this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

JEN ZHAR, City Clerk

By \_\_\_\_\_  
Print Name

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 boundary map for which was recorded on March 16, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts at Page 85, in the Office of the County Recorder, of the County of Stanislaus, State of California.

A map of Annexation No. 1 to the District was recorded on March 25, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts, at Page 86, in that office (as amended by the map entitled "Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2)" recorded on May 14, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts, at Page 90, in that office).

A map of Annexation No. 2 to the District was recorded on May 21, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91, in that office.

A map of Annexation No. 3 to the District was recorded on August 11, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts, at Page 92, in that office.

A map of Annexation No. 4 to the District was recorded on September 15, 2004, in Book 3 of Maps of Assessment and Community Facilities Districts, at Page 93, in that office.

A map of Annexation No. 5 to the District was recorded on October 28, 2004, in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 2, in that office.

A map of Annexation No. 6 to the District was recorded on January 12, 2005, in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 7, in that office.

A map of Annexation No. 7 to the District was recorded on May 6, 2005, in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 12, in that office (which amended the map of Annexation No. 7 prior recorded in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 8, in that office).

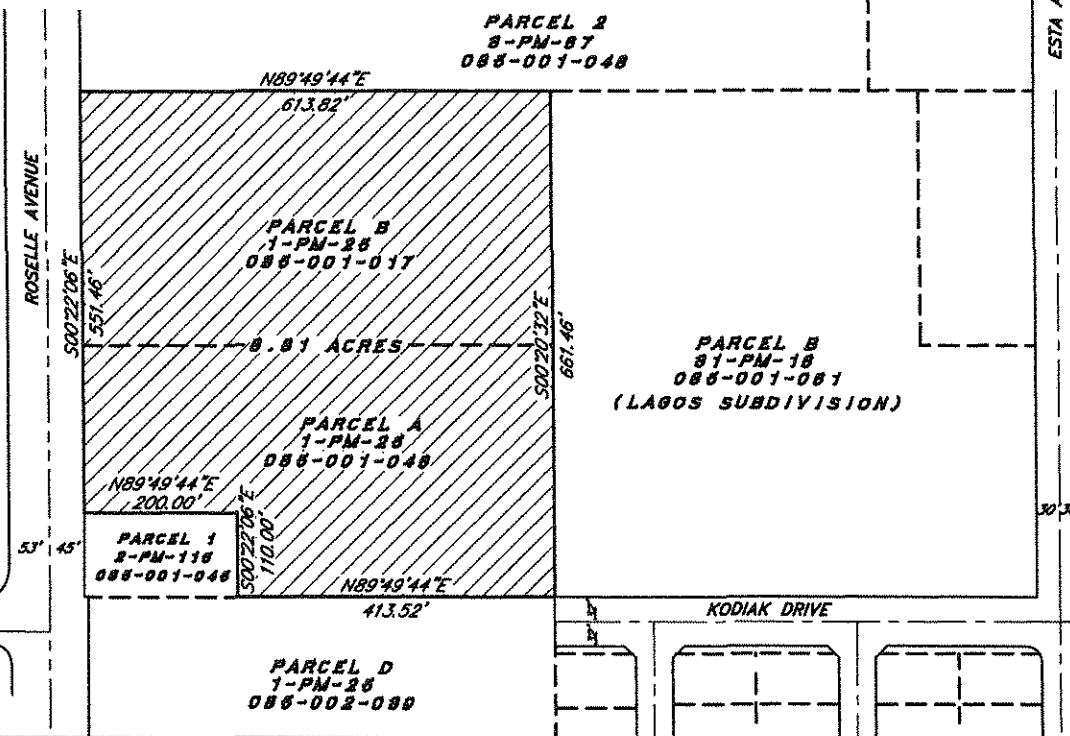
A map of Annexation No. 8 to the District was recorded on June 28, 2005, in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 20, in that office.

JEN ZHAR, City Clerk

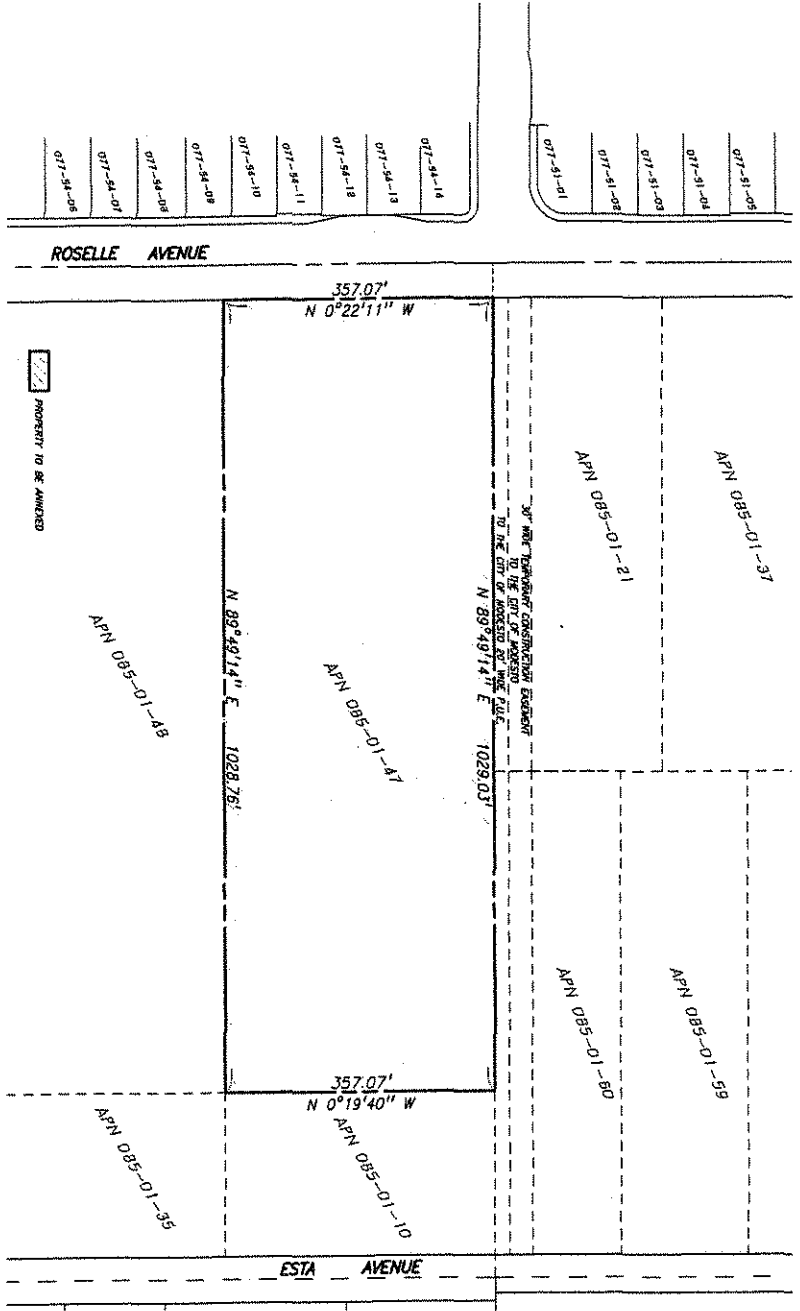
By \_\_\_\_\_  
Print Name

PAPATONE  
EAST  
40-M-88

KODIAK DRIVE



Drawn	DNU	Date	08/23/05	Scale	1"=100'	Job No.	05719	Checked	CWH
Symbol	058	Description							
ANNEXATION MAP NO. 9 OF COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) CITY OF MODESTO COUNTY OF STANISLAUS STATE OF CALIFORNIA									
<b>MOE</b> mid-valley engineering 1111 N. G Street, Modesto, CA 95231 Tel: 209.533.1111 Fax: 209.533.1112									



ROSELLE AVENUE

ESTA AVENUE

PROPERTY TO BE ANNEXED

37' MORE THOMPSON-COMPTON EXISTING TO THE UNDIVIDED SECTION FILE N 89°49'14" E 1029.03'

N 89°49'14" E 1028.76'

357.07' N 0°22'11" W

357.07' N 0°19'40" W

APN 085-01-48

APN 085-01-47

APN 085-01-35

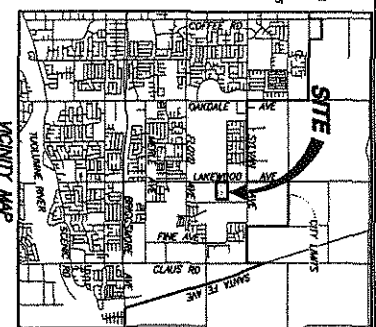
APN 085-01-10

APN 085-01-21

APN 085-01-37

APN 085-01-20

APN 085-01-39



**BASIS OF BEARING**  
 A BEARING OF NORTH 89°49'14" WEST FOR ONE LINE BETWEEN ONE CORNER MONUMENT NO. 2228 AND ONE CORNER MONUMENT NO. 2227 AS SHOWN ON THE ANNEXED CITY OF MODESTO "95" CHANGING METHOD" FILED FOR RECORD IN VOLUME 22 OF BOOKS AT PAGE 31. BEARING OF NORTH 89°49'14" EAST AT THE CORNER OF PARCELS APN 085-01-10 AND APN 085-01-10.

COPYRIGHT © 2004 THOMPSON-HYSELL ENGINEERS

OF 5 SHEETS  
 SHEET NUMBER  
**2**

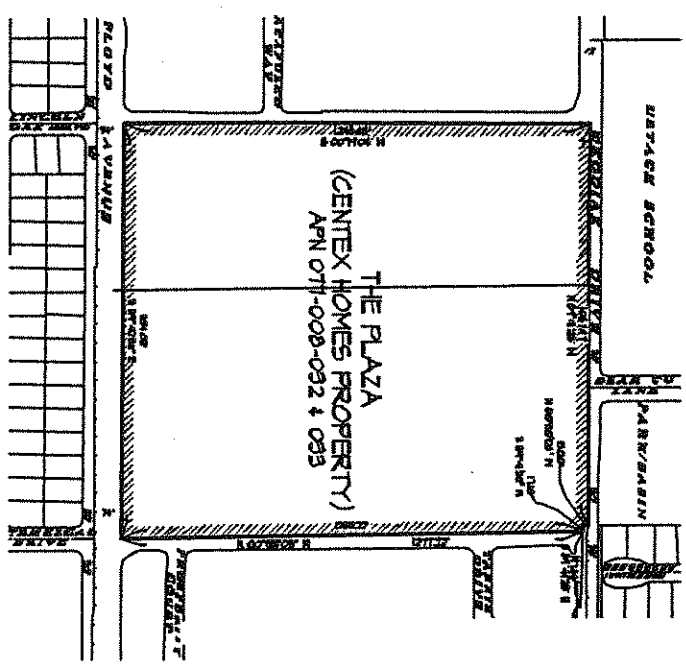
**ANNEXATION MAP NO. 9**  
 OF COMMUNITY FACILITIES DISTRICT  
 NO. 2004-1 (VILLAGE ONE #2)  
 CITY OF MODESTO, COUNTY OF STANISLAUS,  
 STATE OF CALIFORNIA

DATE	REVISIONS	
	NO.	DESCRIPTION

**THOMPSON-HYSELL ENGINEERS**  
 A DIVISION OF THE KEITH COMPANY, INC.  
 1018 12TH STREET, MODESTO, CA 95354  
 (209) 521-0885 FAX (209) 521-8048

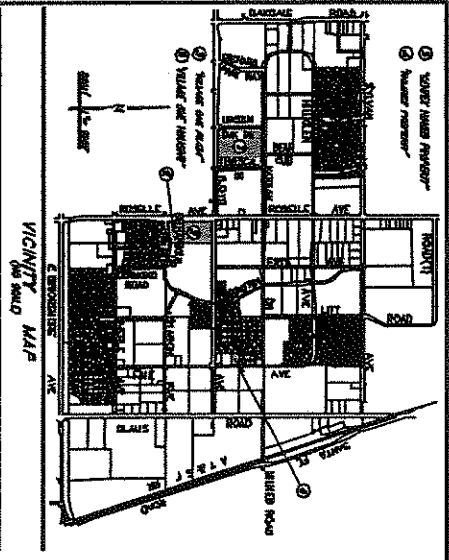
**ANNEXATION MAP NO. 9 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #3)**

CITY OF MODESTO,                      COUNTY OF STANISLAUS,                      STATE OF CALIFORNIA



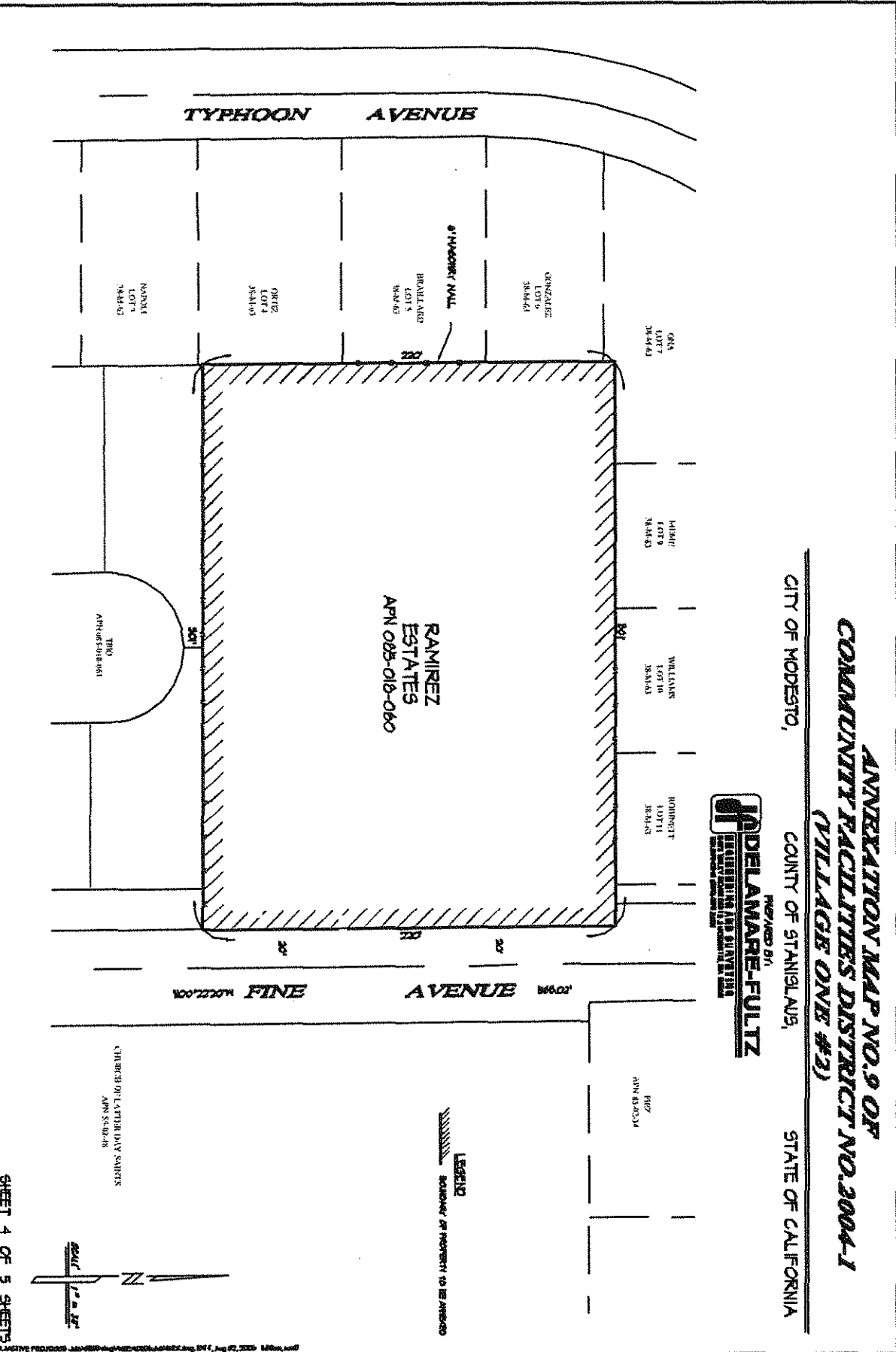
**LEGEND**  

 SUBMITTAL OF PAYMENT TO BE MADE



**ANNEXATION MAP NO. 9 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #3)**

CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA



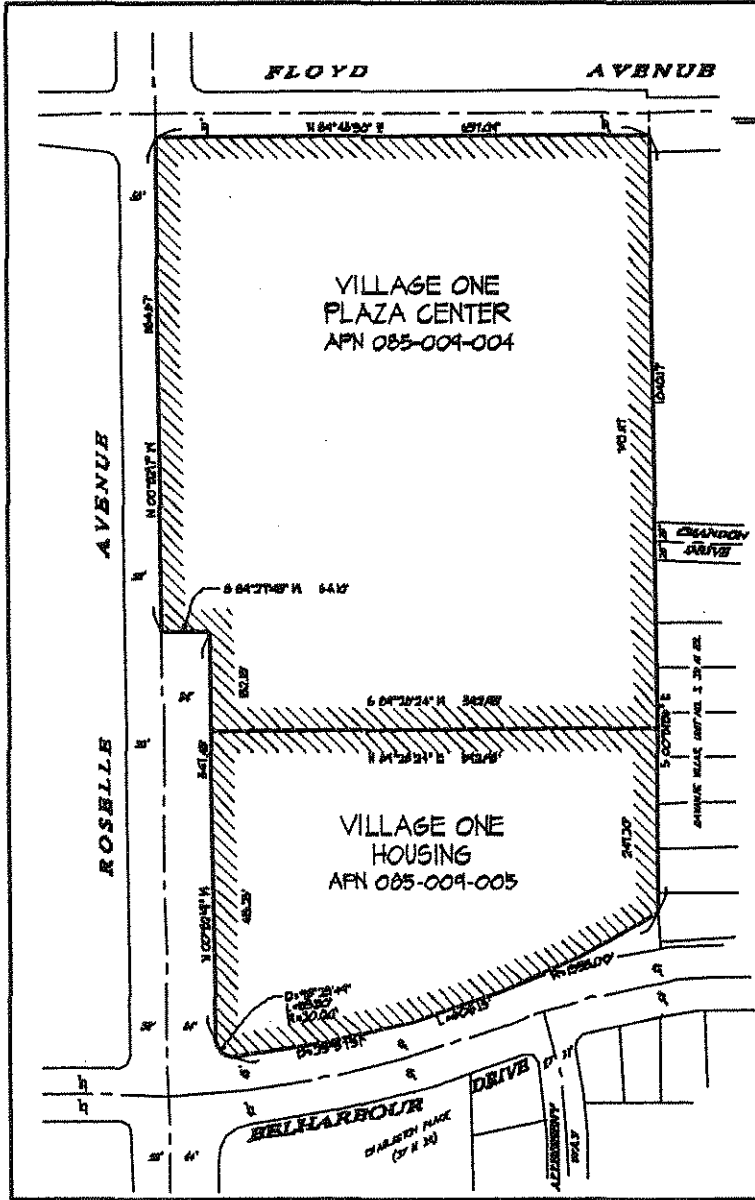
DATE PLOTTED: 10/20/2011 10:44:38 AM. PLOTTER: HP DesignJet 2400. PLOT SCALE: 1" = 400'. PLOT ORIGIN: (0,0). PLOT SIZE: 11.0 x 17.0. PLOT STATUS: SUCCESS. PLOT TIME: 00:01:00. PLOT USER: jdelamare.


**ANNEXATION MAP NO. 9 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

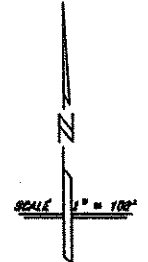
CITY OF MODESTO,

COUNTY OF STANISLAUS,

STATE OF CALIFORNIA



**LEGEND**  
 BOUNDARY OF PROPERTY TO BE ANNEXED



PROJECT FILE NO. 085-009-004-005-006-007-008-009-010-011-012-013-014-015-016-017-018-019-020-021-022-023-024-025-026-027-028-029-030-031-032-033-034-035-036-037-038-039-040-041-042-043-044-045-046-047-048-049-050-051-052-053-054-055-056-057-058-059-060-061-062-063-064-065-066-067-068-069-070-071-072-073-074-075-076-077-078-079-080-081-082-083-084-085-086-087-088-089-090-091-092-093-094-095-096-097-098-099-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-425**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 6th day of September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Mike Milich  
MIKE MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Vickey Dion  
 Telephone No.: 571-5542  
 Department: Public Works

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

Fund Title: Pelandale Snyder (CFD)

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>					
2680-800-8000-8208		0	-\$24,000	-\$24,000	Pelandale/Snyder One Time Capital Reserve
<u>TO</u>					
2680-020-A102-6010		22,000	24,000	46,000	Eng/Desn/Admin

**COMMENTS/JUSTIFICATION**

Snyder Ave. widening between Prescott and Carver  
 On June 28, 2005 City Council approved a reprioritization of remaining projects in the Carver-Bangs/Pelandale-Snyder CFD. This reprioritization included the shifting of funds from lower priority projects to higher priority projects that did not have sufficient funding. This project is a Priority 1 project and did not have sufficient funding. Additional money is needed to complete the design.

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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Vickey Dion  
 Telephone No.: 571-5542  
 Department: Public Works

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

Fund Title: Pelandale Snyder (CFD)

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>					
2680-800-8000-8208		0	-\$365,000	-\$365,000	Pelandale/Snyder One Time Capital Reserve
<u>TO</u>					
2680-020-Q318-6010		132,000	98,000	230,000	Eng/Desn/Admin
2680-020-Q318-6040		880,000	258,000	1,138,000	Construction
2680-020-Q318-6050		132,000	-18,000	114,000	Contingency
2680-020-Q318-6060		87,000	27,000	114,000	Construction Admin

**COMMENTS/JUSTIFICATION**

Storm Drain Basin Pump Stations on Prescott Rd. at Pelandale  
 On June 28, 2005 City Council approved a reprioritization of remaining projects in the Carver-Bangs/Pelandale-Snyder CFD. This reprioritization included the shifting of funds from lower priority projects to higher priority projects that did not have sufficient funding. This project is a Priority 1 project. Improvement plans are nearly complete and the cost estimate was recently updated. This adjustment is needed to provide adequate funding to build this project.

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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Debra Eggerman  
 Telephone No.: 7-5394  
 Department: Finance  
 Project Title: Capital Improvement Support  
 Fund Title: Capital Improvement Support

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
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***DEPARTMENTAL REVENUES***

<u>FROM</u>					
<u>TO</u>					
0100-120-1205-4909					already budgeted during adoption

***APPROPRIATIONS***

<u>FROM</u>					
0300-800-8000-8003			\$63,000	\$63,000	Contingency Reserve
<u>TO</u>					
0300-120-1240-0255	1240C		\$63,000	\$63,000	Service City Forces

***TRANSFERS BETWEEN FUNDS***

<u>FROM</u>					
<u>TO</u>					
Justification: Budget Division CIP team is setting up an account to charge the Capital Improvement Support Fund for direct charges These charges will be recovered from the indirect charges approved annually by Caltrans Audit & Investigations Department.					

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: Yvette Ramos  
 Telephone No.: 75249  
 Department: Finance

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

Fund Title: Capital Grants  
Briggsmore/99

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

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

<u>FROM</u>					
<u>TO</u>					
MY-2300-310-A080-3201			\$1,000,000		State TE
MY-2300-310-A080-3301			\$200,000		Regional TE
MY-2300-310-A080-3187			\$100,000		Minor B

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u>					
06-2300-800-8000-8003	2300R		\$1,300,000		Reserve Contingency

**COMMENTS/JUSTIFICATION**

Increase revenue due to grants coming in.  
*Budgeting in the revenue coming in.*

AUTHORIZATION (check if required)	SIGNATURE	DATE
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 <small>* second signature required for movement of funds between CIP orgs &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</small>		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
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: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance  
 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
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**DEPARTMENTAL REVENUES**

<b>FROM</b>					
MY-2300-310-M182-3164		\$237,000	(\$50,000)	\$187,000	Prop 40 RZH
<b>TO</b>					
MY-2300-310-M182-3165		\$445,262	\$103,000	\$548,262	Prop 12 RZH
MY-2300-310-M182-3163		\$323,000	\$50,000	\$373,000	Prop 40 PC

**APPROPRIATIONS**

<b>FROM</b>					
06-2300-800-8000-8003	2300R		(\$50,000)		
<b>TO</b>					
06-2300-800-8000-8003	2300R		\$153,000		

**COMMENTS/JUSTIFICATION**

Reduction of Prop 40 RZH  
 Increase of Prop 40 PC  
 Increase of Prop 12 RZH  
 The revenues are being switched because specific revenue sources have been found

AUTHORIZATION (check if required)	SIGNATURE	DATE
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 <small>* second signature required for movement of funds between CIP orgs &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</small>		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
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: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance

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

Fund Title: Capital Grants  
Maddux Youth Center

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

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

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

**APPROPRIATIONS**

<u>FROM</u> 06-1190-800-8000-8003	1190R		(\$103,000)		
<u>TO</u> 06-2300-800-8000-8003	2300R		\$103,000		

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u> MY-2300-700-M182-7119		\$1,005,000	(\$103,000)	\$902,000	Capital Grants
<u>TO</u> MY-1190-700-M182-9230		\$1,005,000	(\$103,000)	\$902,000	108 Loan

**COMMENTS/JUSTIFICATION**

Reduction of the 108 Loan due to the increase of \$ coming in from Prop 12 RZH.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance

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

Fund Title: Special Fund for Capital Outlay  
Orville Wright Park

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

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

<u>FROM</u>					
TO MY-2300-310-M186-3215			\$36,276	\$36,276	

**APPROPRIATIONS**

<u>FROM</u>					
06-2300-800-8000-8003	2300R		(\$36,276)		
<u>TO</u>					
06-1400-800-8000-8003	1400R		\$36,276		
06-2300-800-8000-8003	2300R		\$36,276		

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
MY-2300-700-M186-7140		\$55,344	(\$36,276)	\$19,068	
<u>TO</u>					
MY-1400-700-M186-9230		\$55,344	(\$36,276)	\$19,068	

**COMMENTS/JUSTIFICATION**

Reduce transfer from 1400 due to increase in revenue from Land and Water Conservation Grant  
 Land and Water Conservation Grant is a more specific revenue source.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval <small>* second signature required for movement of funds between CIP orgs &amp; line items controlled by different divisions (e.g. Water and E&amp;T)</small>		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		



## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance

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

FY: 05-06

Fund Title: Special Fund for Capital Outlay  
Neighborhood Center at Marshall Park

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

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

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

**APPROPRIATIONS**

<u>FROM</u> 06-1190-800-8000-8003	1190R		(\$103,000)		
<u>TO</u> 06-1300-800-8000-8003	1300R		\$103,000		

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u> 1190-700-M163-7130		\$3,495,000	\$103,000	\$3,598,000	
<u>TO</u> 1300-700-M163-9119		\$3,495,000	\$103,000	\$3,598,000	

**COMMENTS/JUSTIFICATION**

Increase transfer from 1190(108 Loan). Changing revenue sources. This is a more specific revenue source for the project.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance

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

FY: 05-06

Fund Title: Special Fund for Capital Outlay  
Neighborhood Center at Marshall Park

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

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

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

**APPROPRIATIONS**

<u>FROM</u>					
06-1300-800-8000-8003	1300R		(\$166,485)		
<u>TO</u>					
06-0100-800-8000-8003	0100R		\$166,485		

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
MY-0100-700-M163-7130		\$166,485	(\$166,485)		
<u>TO</u>					
MY-1300-700-M163-9010		\$166,485	(\$166,485)		

**COMMENTS/JUSTIFICATION**

Reduce transfer from the General Fund. Changing revenue source to a more specific source.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFE/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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: Finance

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

FY: 05-06

Fund Title: Special Fund fo Capital Out  
Neighborhood Center at Marshall Park

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

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

<u>FROM</u>					
<u>TO</u> MY-1300-310-M163-3191		\$166,000	\$485	\$166,485	

**APPROPRIATIONS**

<u>FROM</u>					
MY-1300-310-M163-6040	M163	\$3,516,965	(\$31,765)	\$3,485,200	
MY-1300-310-M163-6060	M163	\$299,400	(\$30,600)	\$268,800	
MY-1300-310-M163-6050	M163	\$250,120	(\$50,120)	\$200,000	
06-1300-800-8000-8003	1300R		\$63,485		
<u>TO</u>					
MY-1300-310-M163-6010	M163	\$274,000	\$49,485	\$323,485	

**COMMENTS/JUSTIFICATION**

Increase JHBP Grant Decrease expense budget (construction, construction administration, contingency) Increase expense budget (design) Balancing the expenses to the revenue
--

AUTHORIZATION (check if required)	SIGNATURE	DATE
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		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
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: Gail Bailey  
 Telephone No.: x75378  
 Department: Finance

Council Action Date: 9-6-05  
 Resolution Number: \_\_\_\_\_

Fund Title: \_\_\_\_\_

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

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

<u>FROM</u>					
<u>TO</u> 0100-120-1221-4909			\$3,240		Service Credit Revenue

**APPROPRIATIONS**

<u>FROM</u> 6540-165-1672-0255			\$3,240		Service Credit Expenditure
<u>TO</u>					

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u> 6540-700-1221-7010			\$3,240		
<u>TO</u> 0100-700-1221-9654			\$3,240		

**COMMENTS/JUSTIFICATION**

With the closure of CHATM, the Cashiering Div will assume responsibility of selling BART and ACE bus passes. Total service cost for FY06 will be \$3,240 and will be paid by the Transit Fund.

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 in/out of Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

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

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

Fund Title: BUS

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

### Monthly Adjustment

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
<b>DEPARTMENTAL REVENUES</b>					
<b>FROM</b>					
MY-6510-165-A044-3540			\$401,129	\$401,129	FTA X720 Grant
MY-6510-165-A044-3548			\$60,000	\$60,000	FTA5307-CA-90-Y162 Grant
MY-6510-165-A044-3552			\$240,000	\$240,000	FTA5307-CA-90-Y310 Grant
<b>TO</b>					
				\$701,129	

### APPROPRIATIONS

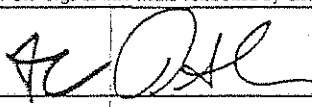
<b>FROM</b>					
06-6540-800-8000-8003	6540R	\$73,136	(\$121,758)	(\$48,622)	Transit Contingency
06-6510-800-8000-8003	6510R	\$399,622	(\$42,001)	\$357,621	Transit Contingency
<b>TO</b>					
06-6510-800-8000-8003	6510r	\$277,864	\$121,758	\$399,622	Transit contingency
MY-6510-165-A044-6070	A044	\$780,886	\$42,001	\$822,887	

### TRANSFERS BETWEEN FUNDS

<b>FROM</b>					
MY-6540-700-A044-7651	A044G		\$121,758	\$121,758	Transfer to vehicle locator <i>Automatic Vehicle Location System</i>
<b>TO</b>					
MY-6510-700-A044-9654			\$121,758	\$121,758	Transfer to vehicle locator

### COMMENTS/JUSTIFICATION

This monthly adjustment is to align this project with the three grants that are available from the FTA. Council had approved to consolidate the projects into one project for ease of accounting purposes. This adjustment places the correct revenues from grants and LTF match and increases the expense side of the project appropriately to take full advantage of available grant funding

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		7/20/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-426**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR THE PRINTING OF MODESTO AREA EXPRESS (MAX) RIDE GUIDES FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF \$34,858**

WHEREAS, the Public Works Department-Transit Division has requested the printing of Modesto Area Express (MAX) Ride Guides, and

WHEREAS, Modesto Area Express (MAX) Ride Guides are usually printed twice per year, and

WHEREAS, the ride guides are the only printed materials available to MAX patrons that show the transit system's individual routes and schedules, and

WHEREAS, for each printing the information in the ride guide is updated to show transit riders new routes, schedule changes, service policies and any other information that the patron might need to help them ride MAX more efficiently, and

WHEREAS, there is no charge to the public for the ride guides, and

WHEREAS, guides can be obtained either on the bus or at one of the MAX pass outlets throughout the City, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for printing of Modesto Area Express (MAX) Ride Guides 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, the City Council has appropriated funds for printing of Modesto Area Express (MAX) Ride Guides in account number 6540-165-1672-0205 (BUS FIXED ROUTE MAX OPERATIONS), and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for printing of Modesto Area Express (MAX) Ride Guides with the Public Works Department-Transit Division staff,

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 printing of Modesto Area Express (MAX) Ride Guides as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the printing of Modesto Area Express (MAX) Ride Guides, for an initial two (2) year period, with three (3) one-year contract extension options, 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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-427**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
PURCHASE TWO (2) VAC-CON COMBINATION SEWER AND STORM  
DRAIN CLEANERS FROM MUNICIPAL MAINTENANCE EQUIPMENT OF  
SACRAMENTO, CALIFORNIA FOR AN ESTIMATED TOTAL COST OF  
\$551,709.72**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of two (2) Vac-Con Combination Sewer Drain Cleaners (vacuum trucks) for use by the Wastewater Collections Division, and

WHEREAS, the two (2) Vac-Con units are used by the Wastewater Collections Division to clean and maintain sewer pipes, and

WHEREAS, routine maintenance and repairs performed by these trucks are part of the City's program to comply with the Clean Air Act, and

WHEREAS, the new trucks will facilitate the use of newer technology for cleaning out roots and grease in sewer lines, and

WHEREAS, these units also act as backup units for flood control during storm events, and

WHEREAS, because these trucks are built to specifications, delivery of these trucks takes up to six (6) months, and

WHEREAS, this equipment is being purchased to replace existing vacuum trucks, which have become unreliable and costly to keep up due to maintenance and repair issues, and

WHEREAS, these units have met their life expectancy projections and are fully funded for replacement in the Fleet Replacement Fund, and

WHEREAS, the pricing offered to the City for this equipment is based on a competitively bid contact from the County of Sacramento, and

WHEREAS, by taking advantage of this pricing offer (“piggybacking”), the City will save approximately \$52,782.00 off current bid pricing for these two (2) Vac-Con units, and

WHEREAS, the City will also save both the bidding and staff time involved in a formal bid process, 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 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 least possible cost commensurate with the desired quality, and

WHEREAS, by “piggybacking” off the County of Sacramento competitively bid pricing contract, the purchase of this equipment will conform to code, and

WHEREAS, the City Council has appropriated funds in accounts: 7210-480-5814-5275 and 7210-480-5814-5276 (FLEET EQUIPMENT, REPLACEMENT) for the purchase of two (2) Vac-Con units, and

WHEREAS, the Purchasing Division has coordinated the review of specifications for two (2) Vac-Con Combination Sewer Storm Drain Cleaners with the Public Works Department- Fleet Services Division, and

WHEREAS, the estimated total cost of this purchase is \$551,709.72,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of purchase order for two (2) Vac-Con Combination Sewer & Storm Drain Cleaners to Municipal Maintenance Equipment of Sacramento, CA. in the approximate amount of \$551,709.72.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for two (2) Vac-Con Combination Sewer & Storm Drain Cleaners, as set forth herein.

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-428**

**A RESOLUTION APPROVING AN AGREEMENT WITH ARCHITECTURE PLUS, INC. FOR PROFESSIONAL ARCHITECTURAL SERVICES TO PREPARE DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENTS FOR THE KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the City of Modesto currently owns the King-Kennedy Memorial Center located in Mellis Park at 601 N. Martin Luther King Drive, and

WHEREAS, the center was constructed in the late 1960's, and

WHEREAS, last year a project was completed that effectively brought the majority of the building up to current ADA Standards, and

WHEREAS, though some maintenance and ADA improvements have been made, the Kitchen and Auditorium still have many of the original elements from the late 1960's, and

WHEREAS, the Kitchen and Auditorium are severely outdated and in need of renovation, and

WHEREAS, renovation of King-Kennedy Memorial Center is expected to begin in summer of 2006, and

WHEREAS, in order to be prepared to begin construction in summer of 2006, the Construction Documents must be completed by spring of 2006, and

WHEREAS, a RFP was distributed to ten (10) architectural service providers in December 2004 for this project; four (4) firms responded to the RFP and submitted a proposal by the January 12, 2005 deadline, and

WHEREAS, a panel of four (4) reviewed the proposals and determined that Architecture Plus, Inc. was the most qualified firm to complete this project, due to their vast experience in designing similar renovation projects, and

WHEREAS, Architecture Plus, Inc. has agreed to provide Design Development and Construction Documents at a cost not to exceed \$48,000.00, and

WHEREAS, the Design Development will be developed using community input through public meetings and workshops, and

WHEREAS, funds are available in Capital Improvement Project 2330-310-P500,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement with Architecture Plus, Inc. for professional architectural services to prepare Design Development and Construction Documents for King- Kennedy Memorial Center Kitchen and Auditorium Remodel for a cost not to exceed \$48,000.00, a copy of which is attached hereto as Exhibit A.

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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**KING-KENNEDY MEMORIAL CENTER**  
**KITCHEN AND AUDITORIUM RENOVATION**  
**AGREEMENT FOR CONSULTANT SERVICES**

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, effective as of this \_\_\_\_ day of \_\_\_\_\_, 2005 (“Effective Date”), by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as “City”, and ARCHITECTURE PLUS, INC., a California corporation, hereinafter referred to as “Consultant”.

This Agreement is made with regard to the following recitals:

1. The City has determined that Design Development and Construction Documents should be prepared for the King-Kennedy Memorial Center Kitchen and Auditorium Renovation Project.
2. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

**1. SCOPE OF SERVICES.**

Consultant shall undertake and complete the requested services as set forth and described in the documents attached hereto and referred to as Exhibit “A” or “Project”. The Consultant shall complete the Project in a manner compatible with the standards of its profession, and shall produce a fully complete Project that is acceptable to City.

**2. TERM OF AGREEMENT.**

This Agreement is effective as of the date first written above and will continue in effect until City’s acceptance of and payment for all services authorized by City and performed by Consultant, unless terminated earlier in accordance with the provision of the termination clause in this Agreement.

City hereby gives Consultant notice to proceed with the Project, as of the effective date of this agreement. Consultant shall diligently proceed with the Project and agrees to

complete the Design Development and Construction Documents within 9 months from the Effective Date of this agreement.

**3. COMPENSATION.**

Consultant agrees to accept a sum not to exceed \$48,000.00 as full remuneration for performing all services and furnishing all staffing and materials called for in the Project and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid in the manner and at the times set forth below:

a. Exhibit "A" provides a Total Cost for each Project Task. Consultant shall submit monthly invoices to City identifying the work performed and percentage of each Task that has been completed. City shall make payments on a monthly basis consistent with the percentage of Task(s) completed, until the City has paid a maximum of 90% of the Total Cost for each Task. The remaining 10% of the Total Cost for each Task will be paid by the City of Modesto upon completion of said Task. All work to be performed under this Agreement shall be billed at the hourly rates shown in Exhibit "B".

b. Reimbursable Expenses: All reproduction, delivery and travel expenses will be billed at cost. The Total Cost for all reimbursable expenses for the Project shall not exceed \$4,000.00. It is the responsibility of the Consultant to manage reimbursable expenses to ensure that they do not exceed this budget. Any reimbursable expenses that exceed this budget, without prior written approval from the Director of the Parks, Recreation and Neighborhoods Department, will not be reimbursed to the Consultant. Reimbursable expenses shall be invoiced to the City by monthly invoices and shall itemize the reimbursable expenses incurred during the preceding month and indicate the amount due.

c. Additional Services: Additional services may be authorized by the Director of the Parks, Recreation and Neighborhoods Department in an amount up to, but not to exceed, \$4,000.00. In the event that additional services are deemed necessary, the Consultant shall provide a written request to the Director indicating the scope, fee and reason for additional work, prior to commencing such additional services. The Director shall provide a written response to the request, either approving or denying the additional expenditure. If additional services are requested and approved they will be billed at the hourly rates set forth in Exhibit "B" and may not exceed the amount requested and approved in writing by the Director. The Consultant will



not be reimbursed for any additional work that is not approved in writing by the Director. If additional services in excess of this budget are deemed necessary by City Staff, an amendment to this Agreement will be required and must be approved by the City Council prior to commencing the work, as provided in Paragraph 9 of this Agreement.

**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 in the City of Modesto, Stanislaus County, California. 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 the Project.

**5. PERFORMANCE BY KEY EMPLOYEE.**

Consultant has represented to City that Tim Fisher, President, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that thirty (30%) percent or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

**6. OWNERSHIP OF DOCUMENTS/TITLE TO DATA.**

**Ownership of Documents**

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

**Title to Data**

If, as a part of the agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids

and other related materials, the originals of all such data generated under this agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from the City data files or any City medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

**7. NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Manager.

**8. INTEREST OF CONTRACTOR.**

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract as required by 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 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 services are provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. The Consultant shall determine all terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law.

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:	Architecture Plus, Inc.
Address:	1207 13 <sup>th</sup> Street, Suite 6 Modesto, CA 95354
Attention:	Tim Fisher, President
Phone:	(209) 577-4661

FOR CITY:

Name: City of Modesto  
Parks, Recreation & Neighborhoods  
Department  
Address: P.O. Box 642  
Modesto, CA 95353  
Attention: Nathan G. Houx, Project Coordinator  
Phone: (209) 571-5526

**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) 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.

(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 scheduled, hired and non-owned automobiles for bodily injury and property damage.

(d) Errors and Omissions liability insurance with a minimum limit of \$1,000,000 per claim and 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 herein above provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Errors and Omissions 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) ,excluding Errors and Omissions, 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. Any insurance or self-insurance maintained by City shall be in excess of Consultants insurance. Consultant shall 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 additional insured status as to both General Liability and Automobile Liability insurance policies and as to the Worker's Compensation subrogation waived.

**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 the City as of the termination date.

**16. INDEMNITY.**

Consultant, its agents, officers and employees shall hold the City, its agents, officers, employees and volunteers, harmless from and save, defend and indemnify them against any and all claims, damages, losses, judgment and liabilities from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney's fees, and all costs and expenses, 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 Consultant, or its agents, officers or employees 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 that vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superceded



except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

**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.

**24. 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.

**25. 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.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. \_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2005, and CONSULTANT has caused this agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

CONSULTANT\*  
ARCHITECTURE PLUS, INC.,  
a California corporation

By \_\_\_\_\_  
GEORGE W. BRITTON, City Manager

By \_\_\_\_\_  
Tim Fisher, President

By \_\_\_\_\_  
Frank Boots, Vice President

Consultants Federal ID# 770083774

ATTEST:

By \_\_\_\_\_  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:  
MICHAEL D. MILICH, City Attorney

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN, Sr. Deputy City Attorney

APPROVED AS TO RISK MANAGEMENT FORM:

By \_\_\_\_\_  
MARY AKIN, Risk Manager

\*Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.  
Partnership - signature of a partner required  
Sole Proprietorship - signature of proprietor required

# EXHIBIT “A” or “Project”

## **Scope of Work** KING-KENNEDY MEMORIAL CENTER KITCHEN AND AUDITORIUM RENOVATION

### **PROJECT DESCRIPTION:**

The City of Modesto wishes to renovate the Kitchen and Auditorium area of the King-Kennedy Memorial Center (formerly known as Westside Neighborhood Center), which was originally built in 1969. The project site is located at 601 N. Martin Luther King Drive (formerly known as Franklin Street) in southwest Modesto.

The work to be accomplished consists of preparation of PS&E for the improvements of the King-Kennedy Memorial Center to upgrade and improve the Kitchen and Auditorium area of the building. This work will be a total remodel of the entire Kitchen and Auditorium areas, including unisex bathroom and storage areas in that portion of the building.

The consultant shall evaluate the existing structure and make recommendations in a wide range of design services including but not limited to: architectural, structural, civil, electrical and HVAC. The consultant shall obtain an asbestos-containing building materials (ACBM) and lead-based paint inspection identifying any contaminates.

The project will be funded with State administered Proposition 40 Grant Funds and possibly federal Community Development Block Grant funds. The consultant shall design the project in compliance with adopted local building codes (City of Modesto) and current ADA standards in order to obtain a City building permit.

The City anticipates a construction contract budget of approximately \$350,000 for this project. Due to constraints on available funds, it is anticipated the construction could be phased in. The construction documents will be comprehensive, allowing for additive/deductive alternates and/or phasing. Working within the above construction budget it is anticipated that building improvements will include most of the following items:

- Removal of disturbed asbestos products during the construction.
- Demolition of existing items
- Remodel and possible reconfiguration of the Kitchen, including all new industrial appliances.
  - Refrigerator.
  - Stove and Oven.
  - Sinks.
  - Preparation and Serving Counters.
  - Dry Storage.
  - Microwave Oven
  - Other necessary items as determined by a committee of citizens and staff.

- Replacement of existing doors and windows, including frames.
- Repair of underground sewer system to the kitchen, which has collapsed.
- Remove and replace flooring in all areas
- Remove all wood paneling in the auditorium
- Renovate the ceiling in the auditorium
- Provide a new sound system to the auditorium, including a new sound booth
- Provide a new lighting system for the stage, auditorium and kitchen
- Provide additional storage in the area
- Refinish stage
- Paint entire area, walls and ceiling as needed.
- Remove room dividers in auditorium and replace if necessary
- Remove and replace stage curtain
- Also HVAC, Electrical, Plumbing, Sewer, etc. may need additional work, as needed

Based on the above, we have provided the following scope of services to be performed in chronological order.

### **Professional Services to Include:**

Task #1 – Design Development Total Cost Not To Exceed \$5,500.00

- 1.01 Coordinate and obtain existing site and planning information from City records; prepare ‘site plan’ and ‘floor plan’ base sheets for the project.
- 1.02 Review physical limitations and opportunities of the existing site. Conduct site reconnaissance to visually review apparent features, utilities, and character of the site, verifying critical conditions.
- 1.03 Complete Haz-Mat study and present report to City. Report should identify specifically any asbestos or lead hazards in the proposed area of work.
- 1.04 Prepare and provide up to three (3) conceptual level design development plans for the project. The conceptual plans should depict alternate solutions to program needs. Prepare concept level cost estimate for each plan.
- 1.05 Meeting #1 - Conduct work session with City staff and stakeholders to present the alternatives; develop consensus on the preferred option.
- 1.06 Refine the alternatives into a single preliminary plan for review and comment by City and stakeholders. Develop and color the preliminary plan and provide cost estimate as well as potential bidding options to City Staff and Stakeholders for final approval.
- 1.07 Meeting #2 - Conduct work session with City staff and stakeholders to present the preliminary plan for review.

- 1.08 Prepare a Final Color Rendered Plan that reflects the consensus of Staff and stakeholders. Provide Color Rendered Plan (full size) to City. Also provide an Electronic Image of the Color Rendered Plan and final cost estimate on compact disc to City, which can be printed by the City in various sizes for public distribution and display.

Task #2 – Construction Documents Total Cost Not To Exceed \$31,125.00

- 2.01 Based on approved plan, prepare preliminary (60% completion) construction plans, refined cost estimate and specifications. Deliver eight (8) sets of plans and specifications to City. City staff will require a minimum of two (2) weeks for review of 60% construction documents.
- 2.02 Provide sample finishes and colors, and cut sheets for all products proposed to be used for construction. In addition, a materials board with colors, finishes, materials, etc. should be provided at the end of this task.
- 2.03 Meeting #3 - Conduct an interdepartmental review session to review City comments.
- 2.04 Prepare 90% level construction plans, specifications and refined cost estimates. Deliver eight (8) sets of plans and specifications to City. Prepare detailed cost estimates for all improvements as per City recommendations. City staff will require a minimum of three (3) weeks for review of 90% construction documents.
- 2.05 Meeting #4 - Conduct an interdepartmental review session to review City comments.
- 2.06 Based on comments received prepare 100% level construction plans, specs, and estimate. Plans will be prepared to allow for deductive and additive alternates or phased construction as necessary. City staff may require a minimum of two (2) weeks for review of 100% construction documents.
- 2.07 Consultant shall provide architectural, mechanical and electrical design for renovation as needed and coordinate work between consulting engineers retained by them. HVAC, plumbing including gas, potable water and sewer, electrical, and minor structural calculations, framing plans, sections and details shall be provided as needed. Plans and Specifications shall be submitted for review to the local building department by the consultant. Civil engineering beyond 5' of building and geo-technical engineering is not included.

The construction documents for the project will include, at a minimum (as applicable):

- title sheet
- existing conditions and demolition plan, including asbestos removal
- proposed floor plan
- enlarged plans and interior and exterior elevations, as needed

- room finish schedules
- HVAC plans, as needed
- plumbing plans, as needed
- electrical plans, as needed
- kitchen and auditorium accessories schedule
- details and specifications
- structural details, as needed
- technical specifications, including boiler plate specifications
- bid form

Submit for review and make necessary modifications as part of final submittal.

Present itemized final cost estimate for construction for review.

Provide one (1) set of final original plans and specifications for reproduction and one (1) AutoCAD version 2002 or earlier, drawing file. All final plans & specifications shall be stamped & signed by a registered professional (Architect or Engineer), as appropriate.

Task #3 – Bidding and Construction Support

Total Cost Not To Exceed \$3,375.00

Assist City staff in bidding process as required, including answering questions from bidders.

Attend pre-bid site introduction

Attend pre-construction conference (one (1) field meeting)

Review and process all shop drawings and submittals required by technical specifications.

Provide site reviews and prepare reports on construction progress and quality with recommendations for correction of any deficiencies (approximately six (6) field meetings).

Assist in determining and processing requests for information and change orders.

Make final review and *report* on completed project (one (1) field meeting).

**Proposed Compensation**

The following fees are based on the scope of work described previously in Exhibit "A". Payments will be made on a monthly basis when portions of the tasks are completed. The monthly billing should be completed as described in Paragraph 3 of the Agreement.

Task #1 – Design Development (not to exceed)	\$ 5,500.00
Task #2 – Construction Documents (not to exceed)	\$ 31,125.00
Task #3 – Bidding and Construction Support (not to exceed budget)	\$ 3,375.00
Reimbursable Expenses (not to exceed budget)	\$ 4,000.00
<u>Additional Services (not to exceed budget)</u>	<u>\$ 4,000.00</u>
<b>Total Contract Amount Not to Exceed</b>	<b>\$ 48,000.00</b>



## Exhibit "B"

### Hourly Rates

The following hourly rates will be used for billable hours within this Agreement and for additional work requested and approved:

#### **Architecture Plus, Inc., Architects**

Principal	\$125/hour
Associate Principal	\$100/hour
Project Manager	\$75/hour
Drafter/CADD Tech 1	\$65/hour
Drafter/CADD Tech 2	\$60/hour
Drafter/CADD Tech 3	\$55/hour
Administration	\$45/hour

#### **Pelton Engineering, Structural Engineer**

Principal	\$125/hour
Senior Engineer	\$100/hour
Junior Engineer	\$75/hour
Drafting & Computer	\$50-\$75/hour
Clerical	\$30/hour

#### **HCS Engineering, Inc., Electrical Engineer**

Principal Engineer	\$110/hour
Project Engineer	\$90/hour
Project Designer	\$60/hour
Project Support	\$40/hour

#### **Alexander Scheflo and Associates, Inc., Mechanical Engineer**

Principal	\$110/hour
Engineering	\$100/hour
Designer	\$85/hour
Drafting	\$65/hour
Computer Input	\$65/hour
Secretarial	\$60/hour

#### **George Bower & Associates, Kitchen Design**

Designer	\$55/hour
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#### **Bovee Environmental Management, Hazardous Materials Surveying**

Principal	\$125/hour
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#### **CM Pros, Cost Estimating**

Principal	\$110/hour
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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-429**

**A RESOLUTION APPROVING THE ADDITION OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) SIDECAR IRAS, AND THE 401/457 LOAN PROGRAM TO THE CITY'S DEFERRED COMPENSATION PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

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

WHEREAS, The International City Management Association Retirement Corporation (ICMA-RC) has worked with the City of Modesto to deliver excellent service, and

WHEREAS, the ICMA-RC has two other available programs, Sidecar IRAs and the 401/457 Loan Program, and

WHEREAS, the City of Modesto, at the behest of the City's Deferred Compensation Committee, has agreed that these new offerings will allow City of Modesto employees to maximize their contributions, and allow them greater flexibility in financial planning, and

WHEREAS, to help offset City's internal cost of plan administration, ICMA will pay City an administrative allowance in the amount of \$20,000 per year in the first and second year of the Agreement and \$35,000 per year in the third, fourth, and fifth year of the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the approval of the implementation of these deferred compensation plan enhancements.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-430**

**A RESOLUTION APPROVING THE ADDITION OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) SIDECAR IRAS, AND THE 401/457 LOAN PROGRAM TO THE CITY'S DEFERRED COMPENSATION PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

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

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WHEREAS, the City of Modesto, at the behest of the City's Deferred Compensation Committee, has agreed that these new offerings will allow City of Modesto employees to maximize their contributions, and allow them greater flexibility in financial planning, and

WHEREAS, to help offset City's internal cost of plan administration, ICMA will pay City an administrative allowance in the amount of \$20,000 per year in the first and second year of the Agreement and \$35,000 per year in the third, fourth, and fifth year of the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the approval of the implementation of these deferred compensation plan enhancements.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-431**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY  
SCHOOLS FOR ONE FULL-TIME POLICE OFFICER WHO WILL SERVE AS  
A MEMBER OF THE HIGH RISK INTERVENTION TEAM, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with, and facilitate resources for, at-risk juveniles, 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 all costs of the Police Officer, salary, benefits and incentives, and will reimburse the City of Modesto for said costs estimated at \$96,600, and

WHEREAS, the High Risk Intervention Team program is scheduled to begin on July 1, 2005, and will terminate on June 30, 2006, and

WHEREAS, the Safety and Communities committee, at its meeting of February 28, 2005, unanimously supported this action,

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 \$96,600.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-432**

**A RESOLUTION TO AMEND THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR ONE FULL-TIME  
POLICE OFFICER WHO WILL SERVE AS A MEMBER OF THE HIGH RISK  
INTERVENTION TEAM FOR MODESTO CITY SCHOOLS**

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with, and facilitate resources for, at-risk juveniles, 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 has entered into an agreement with the City and will pay for all costs of the Police Officer, salary, benefits and incentives, estimated at \$96,600, and will reimburse the City of Modesto for said costs and

WHEREAS, by Resolution No. 2005-169 the Police Officer, salary, benefits and incentives, were estimated at \$85,000 annually and has increased \$11,600 to \$96,600, and

WHEREAS, the High Risk Intervention Team program is scheduled to begin on July 1, 2005 and will terminate on June 30, 2006, and

WHEREAS, the Safety and Communities Committee, at its meeting of February 28, 2005, unanimously supported this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Fiscal Year Budget is hereby amended as follows:



Appropriate:

To: 0100-190-191-0110 \$85,000 Salaries and Benefits

Increase To:

0100-190-191-0110 \$11,600 Salaries and Benefits

Revenue:

To: 0100-190-1921-3727 \$96,600 School-PD  
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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-433**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY SCHOOLS IN THE AMOUNT OF \$324,502 FOR THE PROVISION OF SEVEN 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 seven Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families and staff at Beyer, Davis, Downey, Johansen, and Modesto High Schools, and Elliott Alternative Education Center and Roosevelt Junior High School, 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, 2005, to June 30, 2006, and

WHEREAS, the City shall be compensated \$324,502 for the services of seven Modesto Police Officers, one 12-month officer at \$56,435 and six 9.5 month officers at \$268,067,

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 \$324,502 to provide seven Modesto Police Officers at Beyer, Davis, Downey, Johansen and Modesto High Schools, and Elliott Alternative Education Center and Roosevelt 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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-434**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY  
SCHOOLS IN THE AMOUNT OF \$129,430 FOR THE PROVISION OF FOUR  
MODESTO POLICE OFFICERS TO PROVIDE PREVENTION,  
INTERVENTION, AND ENFORCEMENT SERVICES TO STUDENTS,  
FAMILIES AND STAFF AT MARSHALL AND FRANKLIN ELEMENTARY  
SCHOOLS AND MARK TWAIN AND LA LOMA JUNIOR HIGH SCHOOLS,  
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO  
EXECUTE THE AGREEMENT**

WHEREAS, Modesto City Schools requires four Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families, and staff at Marshall and Franklin Elementary Schools and Mark Twain 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, 2005, to June 30, 2006, and

WHEREAS, the City shall be compensated \$129,430 for the services of four Modesto Police Officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Modesto City Schools in the amount of \$129,430 for the provision of four Modesto Police Officers at Marshall and Franklin Elementary Schools and Mark Twain and La Loma 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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-435**

**A RESOLUTION AUTHORIZING THE PURCHASE OF RETIRED CITY OF  
MODESTO POLICE CANINES BY THE ASSIGNED MODESTO POLICE  
DEPARTMENT CANINE HANDLER, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH  
EACH 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 handlers wish to purchase and assume possession of their assigned canine 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 agreements with Officer Jones and Officer DeAlba for the purchase of their retired police canines, in the amount of One Dollar (\$1.00) each as more fully set forth in the Modesto Police Department Canine Transfer Contracts attached hereto as Exhibit "A" and Exhibit "B" and incorporated herein by this reference.

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

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

Exhibit A  
Modesto Police Department Canine  
Transfer Contract – Officer Jones



## MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this 6th day of June, 2005, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and William Jones, 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 "Victor". *HANDLER* was previously the assigned canine handler for "Victor".
- 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 "Victor", 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 **June 6, 2005**.

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.

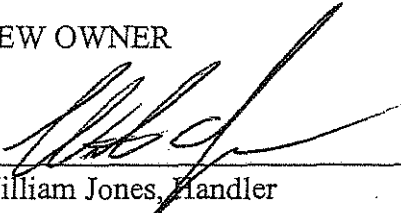
3. *HANDLER* must retain ownership of "Victor" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Victor" 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

  
\_\_\_\_\_  
William Jones, Handler

CITY OF MODESTO

\_\_\_\_\_  
George Britton, City Manager

ATTEST:

By \_\_\_\_\_  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
MICHAEL D. MILICH, City Attorney

Exhibit B  
Modesto Police Department Canine  
Transfer Contract – Officer DeAlba

## MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this 6th day of June, 2005, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Rigó DeAlba, 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 "Rex". *HANDLER* was previously the assigned canine handler for "Rex".

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 "Rex", 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 **June 6, 2005**.

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

4. The retired police canine "Rex" 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



Rigo DeAlba, Handler

CITY OF MODESTO

George Britton, City Manager

ATTEST:

By \_\_\_\_\_  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
MICHAEL D. MILICH, City Attorney

1.00 AUG 01 2005 8:39 AM  
RECEIPT#: 019 12-0053061  
PURCHASE OF 82 REX  
010-190-1961-0055-00

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-436**

**A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO ACCEPT FUNDING IN THE AMOUNT OF \$13,793.43 FROM THE U.S.  
DEPARTMENT OF JUSTICE (DOJ), BULLETPROOF VEST PARTNERSHIP  
PROGRAM**

WHEREAS, The City of Modesto Police Department desires to participate in the Bulletproof Vest Partnership (BVP) Program from the U.S. Department of Justice (hereto referred to as DOJ), and

WHEREAS, the BVP program helps protect the lives of law enforcement officers by assisting local government equip their officers with armor vests, and

WHEREAS, the DOJ BVP program has awarded the City of Modesto funding in the amount of \$13,793.43, to purchase armor vests for law enforcement officers in the Modesto Police Department, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to accept the DOJ BVP program award of funding in the amount of \$13,793.43 for the purchase of armor vests.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Bulletproof Vest Partnership Program award funding with DOJ, including any extensions or amendments thereof.



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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-437**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE FOR A ONE-YEAR BULLETPROOF VEST  
PARTNERSHIP PROGRAM FROM THE U.S. DEPARTMENT OF JUSTICE  
(DOJ) AND APPROPRIATE FUNDS FOR THE PURCHASE OF  
BULLETPROOF VESTS**

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of \$13,793.43 from the U.S. Department of Justice (DOJ), Bulletproof Vest Partnership Program, and

WHEREAS, the federal award funds were made available for the purchase of armor vests for law enforcement officers, and

WHEREAS, the program pays up to 50% of the cost of vests purchased and requires that each applicant jurisdiction be responsible for matching the cost of each qualifying vest purchased, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the BVP program funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Operating Budget is hereby amended as follows:

Revenue:

To:	0100-190-1921-3500	\$13,793.43	Federal Participation
		Revenue	

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-438**

**A RESOLUTION REJECTING ALL BIDS FOR THE DEVELOPMENT AND  
IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM AND  
AUTHORIZING STAFF TO RE-ADVERTISE THE REQUEST FOR  
PROPOSALS**

WHEREAS, the Environmental Protection Agency requires all municipalities with populations exceeding 100,000 to apply for a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit, and

WHEREAS, the NPDES permit establishes the requirements for reducing pollutant runoff into the City's storm drains, which eventually enters either rockwells and/or local waterways, and

WHEREAS, as part of the City's current NPDES Stormwater Permit, the City was mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management Program, and

WHEREAS, the City completed and adopted its SWMP in September 2003, and

WHEREAS, the City must conduct a monitoring program to characterize the runoff from the City and its impact on local waterways, and

WHEREAS, Stormwater Management Program consultant services provided by a firm with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, the Economic Development Committee recommended support of this item at its meeting on March 7, 2005, and

WHEREAS, Council, by Resolution No. 2005-171, authorized the Public Works Department to solicit Request for Proposals (RFP) for the development and implementation of a Stormwater Management Program, and

WHEREAS, Staff solicited RFP from 84 firms and formally advertised the RFP, and

WHEREAS, six (6) proposals were received and one firm was disqualified for not following the instructions of the RFP, and

WHEREAS, proposals received were evaluated per evaluation criteria defined in the RFP, and

WHEREAS, a committee consisting of City staff from the Public Works Department evaluated the proposals, and

WHEREAS, after evaluations were made, the top two firms were interviewed by Public Works staff, and

WHEREAS, based on proposals, interviews and costs evaluations, initial award of contract was given to EOA, Inc., and

WHEREAS, on July 11, 2005 staff received a letter from Larry Walker Associates (LWA), the competitive finalist, disputing how the project was awarded, and

WHEREAS, the Public Works Director asked the Purchasing Division to review all documentation regarding this award of contract, and

WHEREAS, after reviewing documentation, Purchasing indicated that the values placed on the costs portion of the evaluation differed from that used by both their division and applied consistently as a standard throughout the City, and

WHEREAS, the appropriate cost methodology was then utilized and LWA became the most responsible bidder, and

WHEREAS, EOA, Inc. sent a letter dated July 21, 2005 to the City Manager expressing their dissatisfaction with the RFP process that led to the change of award, and

WHEREAS, due to the perceived irregularities in the proposal review process, it is necessary to reject all existing bids and issue a new RFP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes rejecting the original bids for the development and implementation of the Stormwater Management Program and authorizes staff to re-advertise the Request for Proposals.

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 August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-439**

**RESOLUTION ADOPTING A POLICY TO REQUIRE THE INSTALLATION OF  
CERTAIN STORM DRAINAGE IMPROVEMENTS PRIOR TO ANY  
DEVELOPMENT IN THE VILLAGE ONE PRECISE PLAN AREA #30**

WHEREAS, in the Village One Specific Plan Area there exists an area bounded by Merle Avenue, Claus Road, Sharon Avenue, and Fine Avenue known as Precise Plan Area #30 (“PPA #30”), and

WHEREAS, this PPA #30 is a roughly 40 acre area of ranchettes, comprised of 16 properties, and one of the property owners would like to develop/subdivide a 3 acre parcel within this PPA #30, and

WHEREAS, the Village One Facilities Master Plan provides for this PPA #30 to drain its storm water to the East Basin which will be located on the east side of Claus Road, and

WHEREAS, City staff hired Camp Dresser & McKee to provide additional analysis of the storm drainage system to allow staff to determine if other storm drainage solutions for PPA #30 were feasible, and

WHEREAS, based on the information provide by CDM, City staff and the Economic Development Committee determined that there are three possible storm drainage solutions described below that can be constructed to serve the PPA #30, and that prior to any development in PPA #30, one of these options must be constructed, and

WHEREAS, at its meeting on August 8, 2005, the Economic Development Committee recommended the three options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it finds and determines that prior to any development in PPA #30, any one of the following options for storm drainage facilities must be installed:

1. To require that the East Basin as described in the Village One Facilities Master Plan and all the appurtenant piping be installed;
2. To require that a detention basin or linear facility capable of containing 7.4 acre-feet of storm water, with metered discharge to the lines connecting to the West Basin, be designed and constructed and a mechanism established for its maintenance;
3. To require that the existing storm drain line along Merle Avenue and into the Central Basin be upsized or paralleled to accommodate the additional runoff from the entire PPA #30 area.

BE IT FURTHER RESOLVED that the Council finds and determines that the implementation of any one of the above options for storm drainage is required to protect the public health, safety and welfare, and to ensure that any proposed development has adequate and appropriately designed storm drainage facilities to serve it.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-440

RESOLUTION ACCEPTING THE WORK BY ON GRADE CONTRACTING, INC., FOR THE "SEWER EXTENSION TO 2336 SYLVAN AVENUE" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$57,377 PER THE CONTRACT. TOTAL PROJECT COST IS \$159,007

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Sewer Extension to 2336 Sylvan Avenue" has been completed by On Grade Contracting, Inc., in accordance with the contract agreement dated November 23, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Sewer Extension to 2336 Sylvan Avenue" project be hereby accepted from said contractor, On Grade Contracting, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$57,377, 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 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-441

**A RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE "TRAFFIC SIGNAL MODIFICATIONS AT 7 LOCATIONS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$399,593 PER THE CONTRACT. TOTAL PROJECT COST IS \$424,509**

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Traffic Signal Modifications at 7 Locations" has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated December 7, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Traffic Signal Modifications at 7 Locations" project be hereby accepted from said contractor, Collins Electrical Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$399,593 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 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-442**

**RESOLUTION APPROVING A FOURTH AMENDMENT TO AGREEMENT  
WITH DOKKEN ENGINEERING IN THE AMOUNT OF \$22,507.65, TO REVISE  
THE REVEGETATION PLAN FOR THE PROJECT TITLED "REPLACEMENT  
OF THE 9TH STREET BRIDGE OVER TUOLUMNE RIVER," AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT  
TO AGREEMENT**

WHEREAS, on April 13, 1999, the City and Consultant entered into an Agreement for design services for Replacement of the 9<sup>th</sup> Street Bridge over Tuolumne River, and

WHEREAS, revegetation of riparian habitat removed during project construction is a condition of the approvals issued for the project by the State of California Department of Fish and Game, the U.S. Army Corps of Engineers, and National Marine Fisheries Service, and

WHEREAS, revegetation plans and specifications were prepared by Dokken Engineering under Amendment No. 1 consistent with the Ninth Street Bridge Riparian Revegetation Guidelines, and

WHEREAS, plans for the Tuolumne River Regional Park have been prepared and the park is scheduled to begin construction in 2006, and

WHEREAS, modification of the revegetation plans and specifications is recommended to delete revegetation on the north bank of the Tuolumne River where the park improvement plans show regrading and replanting, and

WHEREAS, Consultant represents that it is qualified, willing, and able to provide said services within the required time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fourth Amendment to the agreement with Dokken Engineering in the not-to-exceed amount of \$22,507.65, for revision of the revegetation plans and specifications.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-443**

**A RESOLUTION APPROVING THE FINAL MAP OF THE TRAILS AT DRY  
CREEK SUBDIVISION, AUTHORIZING THE CITY MANAGER TO EXECUTE  
A SUBDIVISION AGREEMENT WITH JOHN J. MACHADO AND JUDY A.  
MACHADO, CO-TRUSTEES OF THE MACHADO FAMILY TRUST  
AGREEMENT, U/D/T**

WHEREAS, JOHN J. MACHADO and JUDY A. MACHADO, CO-TRUSTEES OF THE MACHADO FAMILY TRUST AGREEMENT, U/D/T are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 20.96 acres, known as THE TRAILS AT DRY CREEK SUBDIVISION (“SUBDIVISION”), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on July 1, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 18<sup>th</sup> day of October, 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 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 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 6<sup>th</sup> day of August 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-444**

**A RESOLUTION APPROVING THE FINAL MAP OF THE LAGOS  
SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, OF THE CITY  
OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A  
SUBDIVISION AGREEMENT WITH JOHN LAGOS AND MARIE T. LAGOS,  
HUSBAND AND WIFE, AS COMMUNITY PROPERTY, AND BURKSHIRE  
ESTATES, A CALIFORNIA LIMITED LIABILITY COMPANY**

WHEREAS, JOHN LAGOS and MARIE T. LAGOS, husband and wife, as community property, and BURKSHIRE ESTATES, a California Limited Liability Company, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 8.45 acres, known as the LAGOS SUBDIVISION (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on July 1, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 12<sup>th</sup> 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 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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-445**

**A RESOLUTION ACCEPTING A PORTION OF THE SUBDIVISION  
IMPROVEMENTS INSTALLED WITHIN THE GALAS BROTHERS UNITS NOS.  
1 AND 2 SUBDIVISIONS AS DESCRIBED ON EXHIBIT "A" IN THE  
ACQUISITION AND SHORTFALL AGREEMENT #1 BETWEEN THE CITY OF  
MODESTO COMMUNITY FACILITY DISTRICT NO. 2003-1 AND DEL VALLE  
HOMES, A CALIFORNIA CORPORATION, AND AUTHORIZING THE CITY  
CLERK TO RECORD A NOTICE OF COMPLETION**

WHEREAS, DEL VALLE HOMES, a California Corporation, ("Subdivider") is the subdivider of the GALAS BROTHERS UNITS NOS. 1 AND 2 SUBDIVISIONS (collectively "Subdivisions") in the Fairview Village Specific Plan Area, and

WHEREAS, the Fairview Village Community Facilities District #2003-1 ("CFD") was formed to fund both the infrastructure and maintenance of facilities needed to serve the Fairview Village Specific Plan Area, and

WHEREAS, the Subdivisions were the first developments to occur in the Fairview Village Specific Plan Area and were required to install a significant amount of infrastructure to support their proposed developments, and

WHEREAS, on June 22, 2004, an Acquisition and Shortfall agreement between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Homes was approved by the City Council, and

WHEREAS, Exhibit "A" of said Agreement describes the following facilities to be constructed by Del Valle Homes and to be reimbursed by the CFD:

1. Surface Water Supply Line
2. Water Distribution Pipe Lines
3. Storm Drain Gravity Line to Outfall Line

4. Storm Drain Basin Excavation
5. Sanitary Sewer Force Main, and

WHEREAS, the Agreement allows the Subdivider to obtain reimbursement upon completion of certain functional segments of the Subdivisions improvements, and

WHEREAS, the above-referenced improvements are functional segments of the Subdivisions' improvements, and

WHEREAS, in order for the City to acquire and reimburse the Subdivider for the above functional segments, the City must accept the complete segments on behalf of the public for public use, and

WHEREAS, the Subdivider has filed warranty bonds to guarantee all improvements in the Subdivisions, which warranty bonds will be held until one year and one day after the last of the Subdivisions' Improvements have been accepted by Council, and

WHEREAS, the City Engineer, in a memorandum to Council, indicates that all work as described by Exhibit "A" of the 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 partial improvements in said subdivisions as complete, and to authorize the City Clerk to file a Notice of Completion.

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

1. The following partial public improvements in the Galas Brothers Units Nos. 1 and 2 Subdivisions, as described in Exhibit "A" of the Agreement, are hereby accepted:

- a. Surface Water Supply Line
- b. Water Distribution Pipe Lines
- c. Storm Drain Gravity Line to Outfall Line
- d. Storm Drain Basin Excavation
- e. Sanitary Sewer Force Main

2. The City Clerk is hereby authorized to record a Notice of Completion for the above-listed improvements.

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-446**

**A RESOLUTION APPROVING AN UPDATE TO THE DISADVANTAGED  
BUSINESS ENTERPRISE (DBE) PROGRAM FOR FEDERALLY FUNDED  
STREET, AIRPORT, AND TRANSIT PROJECTS**

WHEREAS, the Federal Government has adopted Federal Regulation 49 CFR Part 26 that mandates that the City adopt a Disadvantaged Business Enterprise (DBE) Program to be eligible to receive federal street, airport, and transit funds, and

WHEREAS, Caltrans has tentatively approved the draft City of Modesto DBE Program for federally funded street projects, contingent upon Council adopting the program, and

WHEREAS, the recommended overall goal for Modesto in the upcoming year is seven (7%) percent DBE participation, and

WHEREAS, in order to continue to receive Federal funding for street, airport, and transit projects, the City must adopt a DBE Program consistent with Federal regulations and receive approval, and

WHEREAS, the City of Modesto has requested public comments regarding the DBE Program, and none were received,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City of Modesto DBE Program for federally funded streets, airport, and transit projects is hereby approved and adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-447**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PAY UP TO  
\$2,000 FOR PARTICIPATION IN THE STATEWIDE DISADVANTAGED  
BUSINESS “UNIFIED CERTIFICATION PROGRAM” (UCP)**

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 DBE Program 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 statewide Disadvantaged Business “Unified Certification Program” (UCP).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of September, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-448**

**A RESOLUTION ACCEPTING THE OFFICE OF TRAFFIC SAFETY (OTS)  
GRANT IN THE AMOUNT OF \$110,000, WITH A CITY MATCH OF \$40,000,  
AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO  
EXECUTE NECESSARY GRANT DOCUMENTS**

WHEREAS, in May, 2005, Traffic Engineering staff received notification that they were awarded an OTS grant in the amount of \$110,000, with a City match of \$40,000, and

WHEREAS, the OTS grant will pay for the purchase of equipment and the City will be responsible for the cost of design and installation of the four in-pavement lighted crosswalk systems and the installation of the countdown pedestrian indications, and

WHEREAS, the Economic Development Committee at their August 8, 2005, reviewed and concurred with staff's recommendation to accept the grant funds and install four lighted crosswalk systems and to install countdown pedestrian indications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Office of Traffic Safety (OTS) grant in the amount of \$110,000.

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 6<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-449**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/2006 CAPITAL  
IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING THE GRANT  
FUNDS AND ESTABLISHING ONE NEW CIP PROJECT TITLED,  
“PEDESTRIAN AND BICYCLIST SAFETY ENHANCEMENT,” IN THE  
AMOUNT OF \$150,000**

WHEREAS, in May, 2005, Traffic Engineering staff received notification from the Office of Traffic Safety (OTS) that the City was awarded a grant in the amount of \$110,000 for the installation of four lighted crosswalks, and

WHEREAS, the OTS grant will pay for the purchase of equipment, and

WHEREAS, the City will be responsible for the cost of design and installation of the four in-pavement lighted crosswalk systems and the countdown pedestrian indications, and

WHEREAS, this recommendation will require \$40,000 be transferred from Gas Tax Reserves to fund the equipment installation, and

WHEREAS, the Economic Development Committee at their August 8, 2005, meeting, reviewed and concurred with staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2005/2006 Capital Improvement Program budget accepting Office of Traffic Safety grant in the amount of \$110,000, with a \$40,000 City match from Gas Tax Reserves, for a total of \$150,000 and creating a new Capital Improvement Project entitled, “Pedestrian and Bicyclist Safety Enhancement.”

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-450**

**A RESOLUTION APPROVING THE INSTALLATION OF SPEED HUMPS IN  
THE SHERWOOD FOREST SUBDIVISION AND AMENDING THE 2005/2006  
BUDGET TO RECOGNIZE AND APPROPRIATE NEIGHBORHOOD  
PARTICIPATION IN THE AMOUNT OF \$18,200, FOR THE INSTALLATION  
OF SPEED HUMPS IN THE SHERWOOD FOREST NEIGHBORHOOD, FOR  
FISCAL YEAR 2005/2006**

WHEREAS, City Traffic Engineering staff received a request from the Sherwood Forest area residents to install speed humps on various streets in the subdivision, and

WHEREAS, the speed hump installation request has met the City of Modesto Speed Hump Policy criteria, and

WHEREAS, the citizens collected the resources needed to fully fund the speed hump installations, and

WHEREAS, the Economic Development Committee at its August 8, 2005, meeting reviewed and concurred with staff's recommendation to install speed humps in the Sherwood Forest Subdivision,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves approving the installation of speed humps in the Sherwood Forest Subdivision and amending the 2005/2006 Budget to recognize and appropriate neighborhood participation, per the City of Modesto Speed Hump Policy, in the amount of \$18,200 for fiscal year 2005/2006, for the installation of speed humps in the Sherwood Forest neighborhood.

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 September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-451**

**A RESOLUTION ACCEPTING A \$550,000 GRANT FROM THE SMALL  
COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM, U.S.  
DEPARTMENT OF TRANSPORTATION, FOR AIRLINE STARTUP  
INCENTIVES TO ATTRACT ADDITIONAL AIRLINE ROUTES TO  
MODESTO, APPROVING THE GRANT AGREEMENT AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT  
AGREEMENT ON BEHALF OF THE CITY**

WHEREAS, on January 19, 2005, the Department of Transportation (DOT) opened the opportunity for communities such as Modesto to apply for the Small Community Air Service Development Program, and

WHEREAS, said grant is intended to provide support for cities wishing to enhance their air service by attracting additional airline routes, and

WHEREAS, Modesto has been identified by DOT as having inadequate air service and unreasonably high airfares, and

WHEREAS, the Airport Advisory Committee endorsed application for the grant being offered by the Small Community Air Service Development Program, and

WHEREAS, the Economic Development Committee approved submittal of a grant application for the Small Community Air Service Development Program in the amount of \$550,000 at its April 11, 2005 meeting, and

WHEREAS, on April 26, 2005, by Resolution No. 2005-212, the Modesto City Council approved submittal of a grant application for a Small Community Air Service Development Program in the amount of \$550,000, and

WHEREAS, on August 25, 2005, the City of Modesto was notified that the Modesto Airport had been awarded a Grant of \$550,000 from the DOT under the Small Community Air Service Development Program, and

WHEREAS, the Grant must be accepted by the City Council on or by September 9, 2005, and

WHEREAS, in order to accept the Grant, the City Council must approve the Grant Agreement and authorize the City Manager to execute it,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the \$550,000 Small Community Air Service Development Program Grant from the U.S. Department of Transportation, and approves the Grant Agreement, a copy of which is attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute the Grant 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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**GRANT OFFER AND AGREEMENT BETWEEN THE  
U.S. DEPARTMENT OF TRANSPORTATION  
AND THE MODESTO CITY-COUNTY AIRPORT, ACTING FOR THE  
COMMUNITY OF MODESTO, CALIFORNIA, UNDER THE SMALL  
COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM**

WHEREAS, the Modesto City-County Airport (hereinafter referred to as the Sponsor), on behalf of the community of Modesto, California, has applied for a Grant under the Small Community Air Service Development Program; now THEREFORE, the U.S. Department of Transportation, hereinafter referred to as the DOT, acting for the UNITED STATES, offers the Sponsor a grant in the amount of \$550,000 to assist in the Sponsor's efforts to address the air service needs of the community.

**THIS OFFER IS MADE ON AND SUBJECT TO THE FOLLOWING TERMS  
AND CONDITIONS:**

**A. GENERAL CONDITIONS**

1. The maximum obligation of the United States payable under this Offer shall be \$550,000.
2. Payment of the United States' share of the agreed project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the DOT may prescribe. Final determination of the United States' share may be based upon a final review of the total amount of agreed project costs and settlement will be made for adjustments to the United States' share of costs.
3. The Sponsor shall carry out and complete the Projects without undue delays and in accordance with the terms hereof, and such regulations and procedures as the DOT may prescribe.
4. The DOT reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
5. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless the Sponsor accepts this offer on or before September 9, 2005, or such subsequent date as may be prescribed in writing by the DOT.
6. The Sponsor shall take all steps, including litigation, if necessary, to recover Federal funds when DOT determines, after consultation with the Sponsor, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in any project upon which Federal funds have been expended. For the purposes of this agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this DOT Grant Agreement (hereinafter referred to as the Grant Agreement).
7. The Sponsor shall retain all documents relevant to the grant award for a period of three years from completion of all projects undertaken pursuant to the Grant Agreement and receipt of final reimbursement from the U.S. Treasury.

It shall furnish the DOT, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the DOT.

8. The United States shall not be responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this Grant Agreement.
9. The Sponsor shall ensure compliance with Federal regulations requiring conduct of a Federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards.
10. The provisions of 49 CFR Part 18 (DOT's procurement standards for grants) will apply to the extent that the Sponsor procures property and services in carrying out the approved grant project(s).

## **B. SPECIAL CONDITIONS**

1. Subject to terms set forth in this agreement, the DOT reserves the right to terminate the Grant Agreement, and the DOT's obligations thereunder, on 90 days' written notice, unless otherwise agreed between the Sponsor and the DOT, if any of the following occurs:
  - a. The Sponsor fails to provide the local contribution as provided in its application, or alternatives approved in writing by the DOT;
  - b. The Sponsor fails to provide the in-kind contributions as provided in its grant application, or alternative in-kind contributions approved in writing by the DOT;
  - c. The Sponsor does not meet the conditions and obligations specified under this Grant Agreement;
  - d. The DOT determines that termination is in the public interest.
2. Either party may seek to amend or modify this Grant Agreement on 30 days' written notice to the other party. The Grant Agreement will be amended or modified only on mutual written agreement by both parties.
3. At any time, on 30 days' written notice, the Sponsor may request termination of this Grant Agreement.
4. Subject to the terms set forth in this Grant Agreement, and unless otherwise agreed between the Sponsor and the DOT, this Grant Agreement will expire two years from the date of execution.

## **C. PROPOSAL SPECIFIC CONDITIONS**

1. Legal Sponsor: City of Modesto, designated by the community of Modesto, California, as the legal Sponsor under the Small Community Air Service Development Program, shall administer the Grant according to the conditions set forth in this Grant Agreement.

Sponsor Contact:

Michael Musca, AAE  
Airport Manager  
Modesto City-County Airport  
617 Airport Way  
Modesto, California 95354  
Tel. 209.577.5319  
Fax 209.576.1985  
mmusca@modestogov.com

2. Project Goals and Objectives

- Secure new service to a hub airport utilizing carrier incentives and marketing, thereby:
  - Improving air service to a broad section of the traveling community surrounding Modesto, California;
  - Mitigating the need for travelers to drive long distances to access air service;
  - Providing better access to the national air transportation system for Stanislaus County.

3. Funding

- a. Total Project Cash Costs: \$650,000  
Federal Share: \$550,000  
Local Share: \$100,000
- b. Payment by DOT shall not exceed \$550,000 for the total project cash costs, which include a financial incentive agreement to secure new service and a comprehensive marketing program to support the new service.
- c. The community will provide the in-kind contributions of \$55,000, as detailed in its application, or alternative in-kind contributions approved by the DOT, toward implementation of the authorized grant project.
- d. The Sponsor shall pay the costs associated with the grant project prior to seeking reimbursement from the DOT.
- e. To seek reimbursement from the DOT, the Sponsor shall submit documentary evidence of all expenditures associated with the grant project set forth in paragraph b., above, and included in the total project costs set forth in paragraph a., above (those to be covered by the local and/or state contribution, as well as those covered by the Federal contribution) on a monthly basis. The DOT will reimburse the Sponsor on a monthly basis for 84.62 percent of all valid expenditures submitted (Federal share of total project costs set forth in paragraph a., above), subject to paragraph f., below. All reimbursement requests to the DOT shall include sufficient documentation to justify reimbursement of the Sponsor, including invoices and proof of payment of the invoice.

- f. Payment of the final 10 percent of the Federal funding for the project will be made after receipt by the DOT of the final report set forth in Section C.4., below.
- g. No reimbursement by the DOT will be made for the financial incentive agreement component until the Sponsor has provided the DOT with a copy of the financial incentive agreement, including the cost and revenue bases for the compensation required.
- h. At the sole option of the DOT, funding may terminate nine months after the execution of this Grant Agreement if the Sponsor has not executed an agreement with Horizon Air or another carrier for air service to a hub airport, unless otherwise agreed between the Sponsor and the DOT.
- i. At the sole option of the DOT, funding may terminate three months after execution of an agreement with Horizon Air or another air carrier if the marketing program to support the service has not been developed and implemented, unless otherwise agreed between the Sponsor and the DOT.
- j. At the sole option of the DOT, funding under this agreement may terminate if no air service by Horizon Air or another carrier has commenced within 18 months of the execution of this grant agreement, unless otherwise agreed between the Sponsor and the DOT.
- k. If during the financial incentive period, the carrier stops providing the subject service, the DOT may choose to terminate reimbursement for that component.
- l. The Sponsor shall ensure that the funds provided by the DOT are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- m. Any Federal funds not expended in conjunction with the project by the date of expiration (Section B.4) of the Grant Agreement will remain with the DOT, unless otherwise agreed between the Sponsor and the DOT. No further reimbursements to the Sponsor for costs incurred after that date will be made or are to be expected.
- n. Should this Grant Agreement be terminated prior to the expiration date provided herein, the DOT reserves the right to require that any of the funds reimbursed to the Sponsor be returned to the DOT.

#### 4. Reports

- a. Project reports, including progress on milestones as set forth in paragraph b., below, shall be reported to the DOT on a quarterly basis, with reports due to the DOT as follows: April 15 for the First Quarter, July 15 for the Second Quarter, October 15 for the Third Quarter, and January 15 for the Fourth Quarter.
- b. Project reports shall include the following: (i) brief narrative detailing the status of the grant project and the progress being made towards the goals and objectives described in Section C.2.; (ii) status report on the hiring of any consultants in conjunction with implementation of the authorized grant project; (iii) status report on progress toward completion of the in-kind contributions committed to implementation of the authorized grant

project, including documentation evidencing that in-kind contributions were made; (iv) status report on all marketing or promotional activities undertaken; (v) status report on contract negotiations with airlines, including any financial incentive agreement(s); (vi) status report on contract negotiations with other third parties; and (vii) comparison of enplanements at the airport generally on a monthly basis beginning with the month of execution of the Grant Agreement with the same month in each of the previous two years and in 2000 (in a format provided by the DOT).

- c. Final report (in a format to be provided by DOT) of the Sponsor's assessment of the project shall be made to the DOT within three months after expiration of this Grant Agreement or conclusion of the grant project, whichever occurs earlier.

5. Sponsor Obligations

- a. Within three months following the date of execution of an agreement with an airline for service at the community, the Sponsor shall submit to the DOT a detailed marketing plan as set forth in the application, including the types of media to be used, projected expenditures for each marketing component, and timeline for release of the marketing/advertising material.
- b. The Sponsor shall provide, in its quarterly Progress Reports, copies of all promotional materials including:
  - (i) copies of any newspaper and/or magazine advertisements/ inserts, direct mailings, and any other promotional material used in implementing its proposal;
  - (ii) copies of billboard advertisements and cities or airports where the billboards will appear;
  - (iii) details of any Internet marketing program, including the sites on which the marketing will take place; and
  - (iv) other samples of marketing materials (e.g., VHS, DVDs, or CDs for commercial television and/or radio advertisements) to be used.
- c. The Sponsor shall, within 15 calendar days of their execution, provide the DOT with a copy of all agreements concluded between the Sponsor and any consultants, air carriers, or other parties with respect to the grant project. The Sponsor shall, within 15 calendar days of execution, also provide the DOT with notice of any amendment to, or termination of such agreements. The Sponsor shall ensure that all agreements entered into with third parties regarding this grant are consistent with this Grant Agreement and the documents incorporated by reference into the Grant Agreement, pursuant to Section E, below.
- d. The Sponsor shall provide evidence on a quarterly basis as set forth in Section C.4., above, to demonstrate the progress that it has made toward securing the in-kind contributions of \$55,000 detailed in its application, or alternative in-kind contributions approved by DOT.

- e. The Sponsor shall ensure that the obligations set forth in this Grant Agreement are met.

**D. ASSURANCES**

The Sponsor shall execute the attached assurances and certifications in conjunction with execution of this Grant Agreement and shall ensure compliance by the grant recipient with those assurances and certifications.

**E. DEFINITIONS**

**Agreement:** Any written or oral contract, obligation, commitment, or understanding between the Sponsor and/or all parties identified in the community's grant proposal.

**Application or Grant Application:** The complete document submitted by the community/sponsor to the DOT in Docket OST-2005-20127, including amendments.

**Carrier or Air Carrier or Airline:** A citizen of the United States undertaking, by any means, directly or indirectly to provide air transportation, including commuter air carriers and air taxi operators.

**Community:** All parties identified in the grant application as participating in the approved grant project, including the designated Legal Sponsor.

**DOT:** United States Department of Transportation.

**Execution of Grant Agreement:** Signing of the written Grant Agreement by the DOT and the Sponsor.

**Federal Share:** Federal funds authorized for use by the grant recipient in implementing the approved grant project.

**Grant Agreement:** The written agreement between the DOT and the Sponsor for the authorized project under the Small Community Air Service Development Program and DOT Order 2005-8-19, incorporating by reference, except to the extent otherwise inconsistent with the terms of the written agreement, the Application originally submitted to the DOT on April 21, 2005, in Docket OST-2005-20127-70, including any amendments, as well as any material submitted in the Docket as Confidential Material.

**Grant Recipient/Grantee:** Community entity/entities receiving the SCASDP grant.

**Local Share:** Public, community, state, or private funds, excluding in-kind contributions described in the grant application, committed in the grant application for use in implementing the approved grant project.

**Party:** The Department of Transportation and/or the Sponsor, as the context indicates.

**Project or Grant Project:** The authorized use of Federal and/or local funds to fulfill the goals and objectives described in the community grant application.

**Proposal:** Project defined by the community in its grant application.

**Quarter or Quarterly:** Calendar quarter. Reports or other information required for submission on a quarterly basis are due no later than 15 calendar days after close of the calendar quarter.

**Small Community Air Service Development Program (SCASDP):** A grant-in-aid financial assistance program originally established under the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21), P.L. 106-181, as amended by Vision 100—The Century in Aviation Reauthorization Act, P.L. 108-176, and codified in 49 U.S.C. 41743.

**Sponsor Obligations:** Responsibilities of the Sponsor under this Grant Agreement and those documents incorporated by reference into the Grant Agreement according to B.1.

**Sponsor or Legal Sponsor:** The designated representative of the grantee to administer and oversee implementation of the Grant Agreement and fulfillment of the authorized grant project.

**Third Party In-Kind Contribution:** property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

**Total Project Cash Costs:** Sum of the Federal and local cash shares contributed toward completion of the approved grant project, excluding in-kind contributions.

**OFFER**

This offer is made in accordance with Public Law 108-176 and Public Law 108-447, according to the above conditions and assurances.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

(SEAL)

United States Department of Transportation

\_\_\_\_\_  
Teresa B. Bingham  
Associate Director  
Office of Aviation Analysis

**ACCEPTANCE**

The Sponsor agrees to accomplish each element of the project in compliance with the terms and conditions contained herein.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

(SEAL)

Modesto City-County Airport  
Modesto, California

\_\_\_\_\_  
Signature of Sponsor's Designated Official Representative

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_

Title: \_\_\_\_\_



**CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:  
That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State (or Commonwealth) of \_\_\_\_\_.  
Further, I have examined the foregoing Grant Agreement, and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State (or Commonwealth) and Title 49 U.S.C. In addition, for grants involving projects to be carried out on property not owned by the Sponsor or where Sponsor may make payments to others, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement, including the Assurances, constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

\_\_\_\_\_  
Signature of Sponsor's Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Telephone

**OFFICE OF THE SECRETARY  
DEPARTMENT OF TRANSPORTATION**

**TITLE VI ASSURANCE  
(Implementing Title VI of the Civil Rights Act of 1964, as amended)**

**ASSURANCE CONCERNING NONDISCRIMINATION ON THE  
BASIS OF DISABILITY IN FEDERALLY-ASSISTED PROGRAMS  
AND ACTIVITIES RECEIVING OR BENEFITING FROM  
FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the  
Air Carrier Access Act of 1986)

49 CFR Parts 21 and 27 and 14 CFR Parts 271 and 382

\_\_\_\_\_ (the Grant Recipient) HEREBY AGREES THAT,  
(Name of Grant Recipient)

I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 21.7(a) and Title 14, Code of Federal Regulations, section 271.9(c).

II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); the Air Carrier Access Act of 1986 (49 U.S.C. 1374(c)); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, Title 14, Code of Federal Regulations, Part 382, Nondiscrimination on the Basis of Handicap in Air Travel; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated against by reason of such handicap in the provision of air transportation, or otherwise be subjected to discrimination under any program for which the Recipient receives Federal financial assistance

from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 27.9 and Title 14, Code of Federal Regulations, sections 271.9(c) and 382.9.

III. It will promptly take any measures necessary to effectuate this agreement. The Recipient further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

IV. These assurances obligate the Recipient for the period during which Federal financial assistance is extended. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

V. These assurances are given for the purpose of obtaining Federal grant assistance under the Small Community Air Service Development Program and are binding on the Recipient, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the Small Community Air Service Development Program. The person or persons whose signatures appear below are authorized to sign this agreement on behalf of the Grant Recipient.

VI. In addition to these assurances, the Recipient agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, or the Air Carrier Access Act of 1986; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Legal Name of Grant Recipient

By:

\_\_\_\_\_  
Signature of Authorized Official

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
OFFICE OF AVIATION ANALYSIS**

**CERTIFICATION REGARDING INFLUENCING ACTIVITIES**

Certification for Contracts, Grants, Loans,  
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Influencing Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Grant Recipient

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
OFFICE OF AVIATION ANALYSIS

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
IN THE PERFORMANCE OF SMALL COMMUNITY AIR SERVICE PURSUANT TO GRANT AWARD  
UNDER THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM**

- A. The grant recipient certifies that it will, or will continue, to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grant recipient's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing an ongoing drug-free awareness program to inform employees about--
    - (1) The dangers of drug abuse in the workplace;
    - (2) The grantee's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
  - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Office of Aviation Analysis. Notice shall include the order number of the grant award;
  - (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
    - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- B. The grant recipient *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of air service pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

Check [ ] if there are workplaces on file that are not identified here.

\_\_\_\_\_  
Grant Recipient Signature

\_\_\_\_\_  
Date

## SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

### GRANT ASSURANCES

**Certification.** The Grantee hereby assures and certifies, with respect to this grant, that:

**1. General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq. Airport Assurances (9/99)
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- g. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended.
- i. Coastal Zone Management Act, P.L. 93-205, as amended.
- j. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- k. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- l. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- n. Power Plant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C. 8373.
- o. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- p. Copeland Anti-kickback Act - 18 U.S.C. 874.
- q. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- r. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- s. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.

#### Executive Orders

- Executive Order 11246 - Equal Employment Opportunity
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 - Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs.
- Executive Order 12898 - Environmental Justice

#### Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- d. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- e. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).

- f. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).
- g. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- h. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- i. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.
- j. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- k. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

**Office of Management and Budget Circulars**

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in the grant agreement.

**2. Responsibility and Authority of the Grantee.**

a. It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**3. Fund Availability.** It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement that it will own or control.

**4. Preserving Rights and Powers.**

a. It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the DOT.

**5. Accounting System, Audit, and Record Keeping Requirements.**

a. It shall keep all project accounts and records that fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The DOT may require that a recipient

conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**6. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**7. Economic Nondiscrimination.** In any agreement, contract, lease, or other arrangement under any project funded under this grant agreement and for which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the Grantee will insert and enforce provisions requiring the contractor to (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

**8. Engineering and Design Services.** It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the Grantee.

**9. Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**10. Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.



**11. Buy America.** In accepting this award, the grant recipient agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"). The recipient should review the provisions of the Act to ensure that expenditures made under this award are in accordance with it. In compliance with Section 508 of Public Law 108-447, the grant recipient is hereby notified that it is in the sense of the Congress of the United States that only American-made equipment and products should be purchased with financial assistance provided under this award.

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Grant Recipient

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Signature of Authorized Grant Recipient Official

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Date

## OFFICE OF THE SECRETARY OF TRANSPORTATION

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant

may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters --  
Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name

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Affiliation

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Title

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Date

**OFFICE OF THE SECRETARY OF TRANSPORTATION  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED  
TRANSACTIONS**

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name

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Title

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Affiliation

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Date

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-452**

**A RESOLUTION AMENDING THE 2006 OPERATING BUDGET TO APPROPRIATE \$705,000 TO THE DEPARTMENT OF TRANSPORTATION AIR SERVICE DEVELOPMENT GRANT ACCOUNT (6310-440-5415) AND TO BUDGET APPROPRIATE REVENUES, WHICH ARE \$550,000 IN GRANT FUNDS FROM THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM, U.S. DEPARTMENT OF TRANSPORTATION, AND \$155,000 OF LOCAL SHARE FUNDING, WHICH INCLUDES \$35,000 FROM AIRPORT FUND RESERVES**

WHEREAS, on January 19, 2005, the Department of Transportation (DOT) opened the opportunity for communities such as Modesto to apply for the Small Community Air Service Development Program, and

WHEREAS, said grant is intended to provide support for cities wishing to enhance their air service by attracting additional airline routes, and

WHEREAS, Modesto has been identified by DOT as having inadequate air service and unreasonably high airfares, and

WHEREAS, the Airport Advisory Committee endorsed application for the grant being offered by the Small Community Air Service Development Program, and

WHEREAS, the Economic Development Committee approved submittal of a grant application for the Small Community Air Service Development Program in the amount of \$550,000 at its April 11, 2005 meeting, and

WHEREAS, on April 26, 2005, by Resolution No. 2005-212, the Modesto City Council approved submittal of a grant application for a Small Community Air Service Development Program in the amount of \$550,000, and

WHEREAS, on August 25, 2005, the City of Modesto was notified that the Modesto Airport had been awarded a Grant of \$550,000 from the DOT under the Small Community Air Service Development Program, and

WHEREAS, amending the 2006 Operating Budget to appropriate the \$705,000 to Department of Transportation Air Service Development Grant Account (6310-440-5415) and to budget appropriate revenues, which are \$550,000 in grant funds from the Small Community Air Service Development Program, U.S. Department of Transportation, and \$155,000 of Local Share funding, which includes \$35,000 from Airport Fund Reserves,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2006 Operating Budget to appropriate \$705,000 to the Department of Transportation Air Service Development Grant (Account 6310-440-5415) and to budget appropriate revenues which are \$550,000 grant funds from the Small Community Air Service Development Program, U.S. Department of Transportation, and \$155,000 of Local Share funding, which includes \$35,000 from Airport Fund Reserves.

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 September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

\ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-453**

**A RESOLUTION DENYING THE APPEAL OF JET INVESTMENTS  
REGARDING KANSAS AVENUE AUTO CENTER FOR MODIFICATION OF  
CAPITAL FACILITIES FEES**

WHEREAS, on June 24, 2003, the Modesto City Council adopted Resolution No. 2003-309 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2003-309 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of the CFF based on the anticipated impacts of the development, and

WHEREAS, the current City practice is to charge auto service centers the retail rate based on square footage as a result of the comprehensive study undertaken to enact the CFF program which went into effect in September 2003, and

WHEREAS, on January 21, 2005, a request was received from Morad Engineering on behalf of JET Investments to collect CFF at the industrial rate rather than the retail rate for the 830 Kansas Avenue Auto Center, and

WHEREAS, on January 31, 2005, Edmond Morad of Morad Engineering was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the CFF Committee had determined that CFF for an auto parts store should be collected at the retail rate, and

WHEREAS, on April 4, 2005, a letter from Michael A. Rein, Esq, was received, on behalf of JET Investments regarding payment of CFF under protest, and

WHEREAS, on June 29, 2005, Michael Rein, Esq., was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that based on an analysis by the City Traffic Engineer, using ITE standards, a determination had been made that the traffic generated by an auto service center use falls within the normal range for retail uses, and

WHEREAS, by letter from Horizon Consulting Services dated July 28, 2005, to Jean Zahr, City Clerk, JET Investments appealed the City's determination that auto service centers should be charged CFF at the retail rate, 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 September 6, 2005, 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 JET Investments request based on traffic data and has determined that auto service centers fall within the normal range for retail uses as outlined in the CFF program based on the afternoon peak hour rates per 1,000 sq. feet for the range of retail uses as denoted in the Institute of Transportation Manual.

2. Said appeal should be denied as recommended because auto service centers fall within the normal range for retail uses as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby denies the appeal of JET Investments regarding modification of Capital Facilities Fees for automotive service centers 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 6<sup>th</sup> day of September 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-454**

**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. 8)**

WHEREAS, this Council did, on June 28, 2005, adopt its Resolution No. 2005-320 (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. 8 of Community Facilities District No. 2004-1 ("Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on June 29, 2005, 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 20; and

WHEREAS, at the time and date set for the hearing (August 9, 2005) pursuant to the Resolution of Intention to Annex, the public hearing was opened and continued to Tuesday, September 6, 2005; and

WHEREAS, this Council held the public hearing on Tuesday, September 6, 2005, 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 or owners of all of the land in the Annexed Territory (hereinafter referred to as "Landowner," without regard to number), the election shall be held on the 6th day of September 2005. 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 6<sup>th</sup> of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**SAMPLE**

**OFFICIAL BALLOT**

**BALLOT NO. \_\_\_\_\_**

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 8**

**SPECIAL TAX ELECTION**

September 6, 2005

**\_\_\_\_% 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. 2005-320182, 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. 87)" adopted by the City Council of the City of Modesto on June 28, 2005, 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. 2005-455**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE SEPTEMBER 6, 2005, 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. 8)**

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. 2005-320, 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. 8)" adopted on June 28, 2005, 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,

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. 2005-454, adopted on September 6, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for September 6, 2005, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on September 6, 2005, 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.

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. 2005-320 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 6th day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-454, 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. 8) adopted on June 28, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on September 6, 2005, 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. 2005-320, 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. 8)" adopted by the City Council of the City of Modesto on June 28, 2005, 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 7      NO 0

  
\_\_\_\_\_  
Jean Zahr  
City Clerk of the City of Modesto

Dated: 9/7, 2005

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-456**

**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. 10)**

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, 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 “Proposed Boundaries of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 85; the map entitled “Proposed Boundaries of Annexation #1 to City of Modesto CFD No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 86 (as amended by the map entitled “Annexation Map No. 1 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at page 90); the map entitled “Annexation Map No. 2 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 91; the map entitled “Annexation Map No. 3 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 96; the map entitled “Annexation Map No. 4 of Community Facilities District No. 2004-1 (Village



One #2),” on file with the County Recorder at Book 3 of Maps of Assessment and Community Facilities Districts, at Page 99; the map entitled “Annexation Map No. 5 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 2; the map entitled “Annexation Map No. 6 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 7; the map entitled “Annexation Map No. 7 of Community Facilities District No. 2004-1 (Village One #2), As Amended,” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 12; the map entitled “Annexation Map No. 8 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 20; and the map entitled “Annexation Map No. 9 of Community Facilities District No. 2004-1 (Village One #2),” on file with the County Recorder at Book 4 of Maps and Assessment and Community Facilities Districts, at Page 27.

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. 10 of Community Facilities District No. 2004-1 (Village One #2), of the 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 25, 2005, 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 13th day of September 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

EXHIBIT A

ANNEXATION NO. 9 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map

**BASIS OF BEARINGS :**

THE BEARING OF NORTH 00°20'00" WEST BETWEEN GPS CONTROL MONUMENTS NUMBER 2627 AND 2727 AS SHOWN IN BOOK 22 OF SURVEYS AT PAGE 51, STANISLAUS COUNTY RECORDS, IS USED AS A BASIS FOR ALL BEARINGS SHOWN ON THIS MAP.

**ANNEXATION MAP NO. 10 OF  
COMMUNITY FACILITIES DISTRICT NO. 2004-01  
(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 \_\_\_\_\_, 2005.

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_

PRINT NAME

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 10 OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-01 (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 THEREOF, HELD ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, BY ITS RESOLUTION NO. \_\_\_\_\_.

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_

PRINT NAME

THIS IS A MAP OF THE AREA PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-01 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA. THE BOUNDARY MAP FOR WHICH HAS BEEN RECORDED ON MARCH 18, 2004, IN BOOK 3 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 89, IN THE OFFICE OF THE COUNTY RECORDER, OF STANISLAUS COUNTY, STATE OF CALIFORNIA.

A MAP OF ANNEXATION NO. 1 TO THE DISTRICT HAS BEEN RECORDED ON MARCH 25, 2004, IN BOOK 3 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 86, IN THAT OFFICE. (AS AMENDED BY THE MAP DATED ANNEXATION MAP NO. 1 OF COMMUNITY FACILITIES DISTRICT NO. 2004-01 (VILLAGE ONE #2) RECORDED ON MAY 14, 2004, IN BOOK 3 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 80, IN THAT OFFICE).

A MAP OF ANNEXATION NO. 1 TO THE DISTRICT WAS RECORDED ON MAY 21, 2004, IN BOOK 3 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 91, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 3 TO THE DISTRICT WAS RECORDED ON AUGUST 11, 2004, IN BOOK 3 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 96, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 4 TO THE DISTRICT WAS RECORDED ON SEPTEMBER 15, 2004, IN BOOK 3 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 99, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 5 TO THE DISTRICT WAS RECORDED ON OCTOBER 28, 2004, IN BOOK 4 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 2, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 6 TO THE DISTRICT WAS RECORDED ON JANUARY 12, 2006, IN BOOK 4 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 7, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 7 TO THE DISTRICT WAS RECORDED ON MAY 5, 2005, IN BOOK 4 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 12, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 8 TO THE DISTRICT WAS RECORDED ON JUNE 28, 2006, IN BOOK 4 OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 20, IN THAT OFFICE.

A MAP OF ANNEXATION NO. 9 TO THE DISTRICT WAS RECORDED ON \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF MAP ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE \_\_\_\_\_, IN THAT OFFICE.

JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_

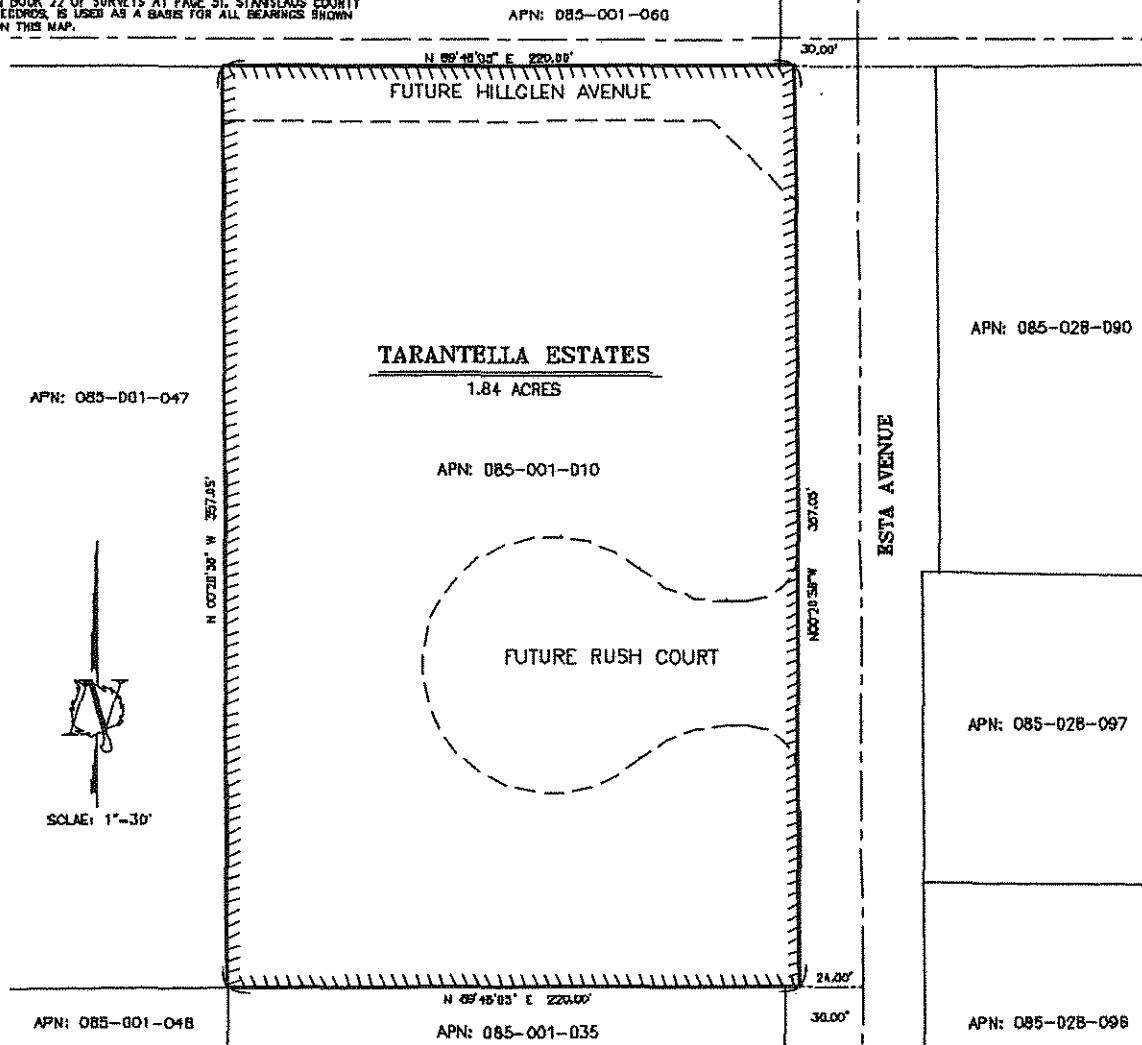
PRINT NAME

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, 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 LANDRIGAN, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA

BY: \_\_\_\_\_

PRINT NAME



**JOHN TURNER**  
CONSULTING ENGINEERS  
ENGINEERS - SURVEYORS - PLANNERS  
147 KENNEDY, BERKELEY, CA 94704  
PH (925) 243-9416 FAX (925) 877-9228

**LEGEND :**  
----- BOUNDARY OF PROPERTY  
///// TO BE ANNEXED

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-457**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE  
#2) AND SYLVAN SCHOOL DISTRICT FOR INSTALLATION OF A STORM  
DRAIN LINE ON KODIAK DRIVE (ADJACENT TO SANDERS PARK SITE),  
AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE  
AGREEMENT**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Sylvan School District ("School District") has agreed to install certain improvements on Kodiak Drive (adjacent to Sanders Park site), and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("agreement") between City of Modesto Community Facilities District No. 2004-1 and School District, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$114,626, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Sylvan School District, a copy of which is on file in the City Clerk's Office, and authorize the District Administrator 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 September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-458**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR THE PURCHASE OF INET SYSTEM EQUIPMENT TO NETLOGIC  
SOLUTIONS, MODESTO, CA, FOR A TOTAL BID PRICE OF \$246,858.94**

WHEREAS, as part of the City's franchise agreement with Comcast, Comcast is to develop a Citywide fiber INET to be utilized by the City of Modesto and several participating school districts, and

WHEREAS, the construction of the INET is completed and currently undergoing validation testing, and

WHEREAS, the INET will not be functional until the City and its participants are able to acquire and install equipment that will allow communications to flow between facilities connected to the INET, and

WHEREAS, on October 12, 2004, by Resolution NO. 2004-535 Council approved the use of \$150,000 of funding for the first phase of the INET implementation, which provides for service to all Fire Stations, and

WHEREAS, this funding request connected the remaining 26 City sites providing high speed data connectivity and the framework for future deployment of voice over IP (VOIP) and other advanced services, and

WHEREAS, the City is unable to take advantage of the INET without purchasing and installing equipment that allows the facilities on the INET to communicate with one another, and

WHEREAS, the INET will provide the City the capability to increase network speeds and bandwidth, which is desperately needed for some remote sites, and

WHEREAS, the INET will also provide the City with the opportunity to broadcast video to any facility on the INET as well as begin the migration to VOIP phone services, saving the City more than \$95,000 annually, and

WHEREAS, the INET will serve as the “hard wired backbone” for a future City of Modesto wireless application that is also being planned for, and

WHEREAS, on May 24, 2005, by Resolution No. 2005-265 Council approved authorizing the Purchasing Supervisor to formally solicit bids for the purchase of INET system equipment, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0506-04, for the purchase of INET system equipment to eleven (11) companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, of the eleven (11) companies solicited, one (1) company chose to respond, and

WHEREAS, City staff recommends the award of Bid No. 0506-04 and contract for the purchase of INET system equipment to Netlogic Solutions, Modesto, CA, for a total bid price of \$246,858.94.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0506-04 and contract for the purchase of INET system equipment to Netlogic Solutions, Modesto, CA, for a total bid price of \$246,858.94.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for the purchase of INET system equipment to Netlogic Solutions, Modesto, CA, for a total bid price of \$246,858.94.

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 September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-459**

**A RESOLUTION APPROVING AN AGREEMENT WITH TURNSTONE CONSULTING FOR PREPARATION OF A MASTER ENVIRONMENTAL IMPACT REPORT FOR THE CITY'S WASTEWATER MASTER PLAN AND WASTEWATER RATES AND COLLECTION FEES UPDATES IN AN AMOUNT NOT TO EXCEED \$456,396, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City is in the process of planning for a significant wastewater capital improvement program ("CIP") in order to meet existing deficiencies and replacement needs within its wastewater system, as well as to provide capacity to meet the needs of projected growth; and

WHEREAS, the planning effort includes an update to the City's 1995 Wastewater Master Plan to evaluate the City's infrastructure needs, as well as a comprehensive update to the City's wastewater rates and collection fees to provide the funding necessary to implement the CIP (collectively, the "Project"); and

WHEREAS, the City has determined that a master environmental impact report ("MEIR") should be prepared for the proposed Project to satisfy the requirements of the California Environmental Quality Act; and

WHEREAS, the City has determined that Turnstone Consulting is willing, able and well-qualified to prepare the MEIR for the proposed Project.

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 Turnstone Consulting for preparation of a Master Environmental Impact Report for the City's Wastewater Master Plan and Rates and Collection Fees Updates, in an amount not to exceed \$456,396, a copy of which is on file in the City Clerk's office.

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to execute the 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 13th day of September, 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-460**

**A RESOLUTION TO AMEND THE FY 2006 CIP BUDGET: A) TO REDUCE COLLECTION SYSTEMS REHAB PROJECT 6210-480-B574 BY \$150,000; B) TO REDUCE ANNUAL R&R PRIMARY SITE PROJECT 6210-480-B576 BY \$317,700; C) TO REDUCE ANNUAL R&R SECONDARY SITE PROJECT 6210-480-B577 BY \$317,700 AND RETURN THOSE FUNDS TO WASTEWATER FUND BALANCE 6210-800-8000-8003 TO BE REALLOCATED TO THE WASTEWATER MASTER PLAN 6210-430-A208 FOR A TOTAL OF \$785,400**

WHEREAS, on September 6, 2005, the City Council approved a Professional Services Agreement with Turnstone Consulting to prepare an Environmental Impact Report for the Wastewater Master Plan and Wastewater Rate and Connection Fees Update (“EIR”), and

WHEREAS, the EIR’s total cost of \$456,396 is more than the Wastewater Master Plan Fund balance of \$21,000, by an amount of \$435,396, and

WHEREAS, on September 27, 2005, the City Council will consider approving a Professional Services Agreement with Carollo Engineers to prepare the Wastewater Master Plan Phase 2 for the amount of \$332,000, and

WHEREAS, on September 27, 2005, the City Council will also consider approving staff charges of \$18,000 to administer the Carollo Engineer’s Wastewater Master Plan Phase 2 Agreement, and

WHEREAS, the Wastewater Master Plan Phase 2 will perform critical infrastructure planning tasks, including identifying improvements for existing and future services, and

WHEREAS, the EIR will identify new wastewater rates and connection fees which will fund capital projects associated with the Wastewater Master Plan, and

WHEREAS, the Finance Department has indicated that there are sufficient funds in the Fund 6210 fund balance for the appropriation of this project within the FY 2006 Capital Improvement Program Budget to fully fund 6210-430-A208,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to the FY 2006 CIP Budget: a) to reduce Collection Systems Rehab Project 6210-480-B574 by \$150,000; b) to reduce Annual R&R Primary Site Project 6210-480-B576 by \$317,700; c) to reduce Annual R&R Secondary Site Project 6210-480-B577 by \$317,700 and return those funds to Wastewater Fund Balance 6210-800-8000-8003 to be reallocated to the Wastewater Master Plan 6210-430-A208 for a total of \$785,400.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-461**

**A RESOLUTION ACCEPTING THE WORK BY VANGUARD CONSTRUCTION  
FOR THE "2004 ADA CURB RAMP CONSTRUCTION" PROJECT AS  
COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF  
COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE  
TOTALING \$171,470.50 PER THE CONTRACT. TOTAL PROJECT COST IS  
\$225,166.24**

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "2004 ADA Curb Ramp Construction" has been completed by Vanguard Construction, in accordance with the contract agreement dated April 5, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "2004 ADA Curb Ramp Construction" project be hereby accepted from said contractor, Vanguard Construction, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$171,470.50, 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 13th day of September, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

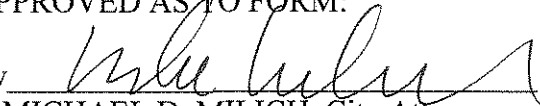
ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-462**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
PUMP STATION FOR WELL 62 AT FREEDOM PARK PROJECT,  
ACCEPTING THE BID AND APPROVING A \$632,315 CONTRACT WITH R.L.  
DAVIS CONSTRUCTION CO., INC., FOR THE PROJECT TITLED, “PUMP  
STATION FOR WELL 62 AT FREEDOM PARK,” AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the bids received for “Pump Station For Well 62 At Freedom Park” were opened at 11:00 a.m. on August 16, 2005, and later tabulated by the Acting Public Works Director for the consideration of the Council, and

WHEREAS, the Acting Public Works Director has recommended that the bid of \$632,315 received from R.L. Davis Construction Co., Inc., be accepted as the lowest responsible bid and the contract be awarded to R.L. Davis Construction Co., 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 R.L. Davis Construction Co., Inc., in the amount of \$632,315, and hereby awards R.L. Davis Construction Co., Inc., the contract titled “Pump Station For Well 62 At Freedom 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 13<sup>th</sup> day of September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-463**

**RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH #2005042019) FOR THE WELLS REPLACEMENT PROJECT AND ADOPTING A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL REVIEW DOCUMENT**

WHEREAS, Section 15064 (f)(2) 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, a proposed Wells Replacement Project consists of two new drinking water well sites in the City of Modesto to replace the water supply capacity that the City has lost from the closure of existing drinking water well sites within the City in order to serve existing and approved development in the City, and

WHEREAS, the proposed Project includes two well sites and an alternate site, the first site located within the Village One Specific Plan area in the northeast corner of the Freedom Park site and adjacent to Freedom Elementary School, the second site located within the Pelandale/Snyder Specific Plan area at the northwest corner of the existing McKinney Colony park site near the corner of Warm Springs Drive and Pickford Way, and an Alternative Site located within the Village One Specific area in the future Grogan Park site near the corner of Litt Road and Sylvan Avenue, and

WHEREAS, Pacific Municipal Consultants (PMC), under contract with the City, prepared an Initial Study and Mitigated Negative Declaration (SCH #2005042019) for the Wells Replacement Project and said Initial Study and Mitigated Negative Declaration

identified potential significant impacts from the proposed Project relating to biological resources, hazardous materials and the generation of noise, and

WHEREAS, pursuant to CEQA Section 15070, the City agreed to incorporate feasible mitigation measures into the proposed Wells Replacement Project before the Initial Study/Mitigated Negative Declaration was released for public review in order to avoid or mitigate the identified impacts to a point where clearly no significant impact on the environment will occur, and

WHEREAS, CEQA Guidelines Section 15070 permits the adoption of Mitigated Negative Declarations when the Project has been revised, so that potential significant adverse impacts can be avoided or mitigated to a less than significant level, and

WHEREAS, a 30-day public review period for the proposed Project began on April 4, 2005 and ended on May 3, 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 suggested technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation Monitoring and Reporting Program (MMRP) 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 prepared for the Wells Replacement Project, a copy of which is on file in the City Clerk's Office, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. This Initial Study, prepared pursuant to CEQA Section 15063, has identified potential significant environmental effects that would result from the Project. The additional significant effects are potential impacts related to biological resources, hazardous materials and the generation of noise.
2. Feasible mitigation measures were agreed to by the City and incorporated into the proposed Project before the Initial Study and Mitigated Negative Declaration was released for public review pursuant to CEQA Section 15070 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.
3. There is no substantial evidence in light of the whole record before the public agency that the proposed Project, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).
4. Based on the above-referenced Initial Study/Mitigated Negative Declaration and the fact that feasible mitigation measures were incorporated to revise the proposed Project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, the Initial Study/Mitigated Negative Declaration should be adopted for the proposed Project.
5. Although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above have been added to the Project. The Initial Study/Mitigated Negative Declaration, (SCH #2005042109) will therefore be adopted.
6. The City further finds that the cumulative impacts of this Project are less than significant as described in Section 4.0 of the Initial Study/Mitigated Negative Declaration (Cumulative Impacts). As such, this Project would generate no additional cumulative impacts that were not previously addressed in the Master EIR. All appropriate mitigation measures from the Master EIR have been incorporated into the Project, and no further evaluation of cumulative impacts is required.
7. As required by CEQA Section 21081.6 et seq., the mitigation monitoring program (Section 6.0 of the Initial Study/Mitigated Negative Declaration) is hereby adopted.
8. The Initial Study/Mitigated Negative Declaration (SCH #2005042019) provides the substantial evidence to support findings 1 through 7, above.

A copy of said Initial Study/Mitigated Negative Declaration (SCH NO. 2005042019) is on file with the City Clerk. 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 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 13<sup>th</sup> day of September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-464**

**A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF  
A LIEBERT 65KVA UNINTERRUPTIBLE POWER SUPPLY FOR THE IT  
DEPARTMENT, FOR A TOTAL ESTIMATED COST OF \$100,000**

WHEREAS, the 5<sup>th</sup> floor datacenter is provided with “clean” power and power protection through an IPM/Powerware BPII Uninterruptible Power Supply (UPS) unit located on the 5<sup>th</sup> floor, and

WHEREAS, this UPS supports Citywide financial systems such as budget, accounting and payroll, and

WHEREAS, the UPS has experienced several failures over the last several months to its charging system and is currently experiencing total system failure, and

WHEREAS, the Power BPII is a discontinued model, and

WHEREAS, parts have limited availability and this has resulted in long delays in service and repairs, and

WHEREAS, in the past two (2) months, the IT Department has experienced three (3) system failures resulting in total datacenter blackouts, as well as loss/damage to data and equipment, and

WHEREAS, the system experienced total system failure on August 29, 2005, resulting in numerous service calls, and

WHEREAS, parts replacement has been unsuccessful in repairing the system, and

WHEREAS, the vendor is still trying to determine the problem, and cannot provide a realistic timeframe for successful repair, and

WHEREAS, the datacenter is currently operating on utility power with no backup protection in place, and no guaranteed UPS repair time estimates, and

WHEREAS, the current UPS is located in a non-environmentally controlled location, and

WHEREAS, this may have been a partial cause of the system's failure, and

WHEREAS, the new system's cost estimate includes relocation to an environmentally controlled location, as well as associated wiring and installation costs, and

WHEREAS, engineering site visits will be a requirement in the solicitation of bids, and

WHEREAS, the 5<sup>th</sup> floor datacenter UPS provides continuous power to all enterprise computer equipment in the event utility provided power fails, and

WHEREAS, the UPS is the "failsafe" that protects the City's datacenter, including all mission critical servers and data systems, and

WHEREAS, the UPS provides critical temporary power in the event of loss of utility power to allow servers and data systems to shut down in a normal fashion, and

WHEREAS, failure of the utility provided power source, without UPS protection, would result in immediate failure and shutdown of all datacenter systems, and

WHEREAS, additionally, this immediate mode of shutdown often results in server damage to the servers and/or data systems, and

WHEREAS, shutdown of datacenter and web-based applications will negatively impact all City staff and citizens of Modesto, and



WHEREAS, due to the critical nature of having a dependable UPS system in place that protects several operating systems Citywide, such as the financial system's budget, accounting and payroll systems, and based on the fact of the recent power losses experienced by the IT Department, the City Manager's Office has determined this to be a critical situation, demanding a (critical need) circumstances, 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. However, one exception to the code (8-3.204 (c)), allows for the Purchasing Supervisor, in his or her discretion, to determine that calling for formal bids on a competitive basis, as set forth in Section 8-3.203 is undesirable due to demanding circumstances, and

WHEREAS, based on the critical nature of the request the Purchasing Supervisor evoked that exception for this purchase and installation. The solicitation of informal competitive bids for the purchase and installation of a Liebert 65KVA uninterruptible power supply will conform to Modesto Municipal Code Section 8-3.203, and demonstrate that a competitive process was met

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

SECTION 1. Following Council approval, the Purchasing Division will solicit competitive quotes for the purchase and installation of a Liebert 65KVA uninterruptible power supply, evaluate bid responses for the best overall value to the City, and issue a purchase order to the selected vendor.

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 September 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-465**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED  
DEVELOPMENT ZONE, P-D(574). (ERNIE YOSHINO)**

WHEREAS, a verified application for an amendment to Section 16-3-9 of the Zoning Map was filed by Ernie Yoshino on January 24, 2005, to reclassify from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(574), to allow conversion of an existing residence to a medical office, property located on the west side of Coffee Road south of Athens Avenue, described as follows:

R-3 to P-D(574)

A portion of the North Half of Southeast quarter of Section 16, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Commencing at the Northeast corner of the Southeast quarter of said Section 16, said point being on the centerline of a 50 foot County Road known as Coffee Road, thence along the Northerly line of said Southeast quarter, North 88° 37' West 25.01 feet to a point on the Westerly line of said Coffee Road; thence South along the Westerly line of said Coffee Road parallel with and 25.00 feet distant from the Easterly line of said Section 16, a distance of 426.99 feet to the Southeast corner of Lot 10 in Block 12910 of Brookdale Park No. 3, as per map filed February 25, 1963 in Volume 20 of Maps, as Page 61, and THE TRUE POINT OF BEGINNING; thence at right angles West along the South line of said Lot 10 a distance of 136.39 feet to a point on the East line of a 20 foot alley shown in said Block 12910 Map of Brookdale Park No. 3; thence South 0° 29' West along the east line of said 20 foot alley a distance of 111.53 feet to the Northwest corner of Lot 11 in said Block 12910; thence North 89° 07' East along the North line of said Lot 11 a distance of 139.05 feet to the Northeast corner of said Lot 11 also being a point on the West line of 50 foot wide Coffee Road; thence North 0° 53' West along said West line of said Coffee road a distance of 111.50 feet, more or less, to THE POINT OF BEGINNING;

Including also all of the 20 foot alley immediately adjacent to the above described property.

WHEREAS, after a public hearing held on June 20, 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. 2005-32, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

- a. The proposed Planned Development corresponds with the "Coffee Road Zoning & Development Policy" adopted by the Planning Commission on January 18, 1972 (Amended on February 6, 1989). The Policy attempts to concentrate higher intensity land uses such as Professional Office (P-O) Zones along the Coffee Road Frontage.
- b. That the proposed Planned Development Zone, by reason of its plot plan design, 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 September 13, 2005, 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 Ernie Yoshino 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. 2005-32 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3394-C.S. on the 13th day of September, 2005, reclassifying the above-described property from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(574).

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

1. All development shall conform to the plot plan and floor plans titled "Dr Gervacio Diaz Building" as amended in red, stamped approved by the City Council on September 13, 2005.
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 north, south and west property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
3. The project shall dedicate 5 feet of street right-of-way along Coffee Road and repair all street improvements including, but not limited to curb, gutter, and sidewalk, and be consistent to Standard Specifications. This 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.
4. 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.
5. 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.
6. 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.
7. Local Stormwater Pollution Prevention Plan (SWPPP) for project must be submitted to Development Services-Stormwater prior to the issuance of a Building Permit. Local SWPPP to include soil stabilization measures, sediment controls; drain inlet protection in public right-of-way, stabilized construction entrance, and concrete wash out area.

8. Fences or walls shall be constructed prior to occupancy and shall be as follows:
  - a. Install a six-foot-high, single-board fence with decorative masonry pilasters at 16-foot-on-centers along the north property line adjacent to the existing building,
  - b. Install a six-foot-high, batton-board fence with decorative masonry pilasters at 16-foot-on-centers along the north and south property lines on that portion of the property line adjacent to the parking area.
  - c. Install a seven-foot-high, batton-board fence with decorative masonry pilasters at 16-foot on-centers, along the west property line adjacent to the residential dwelling units.
9. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
10. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
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. The enclosure shall be sized to adequately accommodate recyclable materials. The trash enclosure for this project shall be altered to meet current City Stormwater Standards:
  - a. Berm to prevent stormwater run-on.
  - b. Grade to drain to adjacent landscape area.
12. 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.
13. All signs shall comply with the sign requirements of the P-O Zone.

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

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master EIR that should be applied to the project, pursuant to the Initial Study (Environmental Assessment No. EA/C&ED 2005-25) prepared for the project:

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

20. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
21. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

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

- a. A hammer or any other device or implement used to pound or strike an object.
- b. An impact wrench or other tool or equipment powered by compressed air.
- c. A hand-powered saw.
- d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
- e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
- f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.



- g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
  - h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
22. 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.
23. 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(574):

The entire construction program be accomplished in one phase, construction to begin on or before September 13, 2007 and completion to be not later than September 13, 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 the ordinance reclassifying the above-described property to Planned Development Zone, P-D(574), becomes effective.

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 September 2005, 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, Jackman, Keating, Marsh, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Hawn, O'Bryant

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By:   
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-466**

**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 16-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(574), PROPERTY LOCATED ON THE WEST SIDE OF COFFEE ROAD SOUTH OF ATHENS AVENUE. (YOSHINO)**

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, Ernie Yoshino has proposed that the zoning designation for the property located on the west side of Coffee Road south of Athens Avenue be amended to rezone from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(574), to allow a 2,002-square-foot medical office building, 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 2005-25 (“Initial Study”) reviewed the proposed amendment to the Zoning Map and rezone to P-D(574) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area

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

WHEREAS, in accordance with CEQA guidelines on August 21, 2005, 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. 2005-32 recommended to the City Council approval of the application of Ernie Yoshino to rezone R-3 Medium-High Density Residential to Planned Development Zone, P-D(574), for the property located on the west side of Coffee Road south of Athens Drive, to allow a conversion of an existing residence to medical office uses on site as set forth in said Resolution No. 2005-32, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on September 13, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(574) project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
4. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
  - 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 13<sup>th</sup> day of September 2005, 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, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**Initial Study**  
**EA/C&ED 2005-25**

# **City of Modesto**

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

**Initial Study C&ED No. 2005-25**

**For the proposed:**

**PDZ- Planned Development Zone  
2013 Coffee Road - Yoshino**

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

**July 29, 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 Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH No.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 – Dr. Gervacio Diaz Medical Building
- B. Address or Location: 2013 Coffee Road
- C. Applicant: Ernie Yoshino, Yoshino Shaw & Associates, 1016 N. Golden State Blvd. Turlock, CA 95380
- D. City Contact Person: Rita S. Doscher

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

- E. Current General Plan Designation(s): "MU" Mixed Use
- F. Current Zoning Classification(s): "R-3" Medium High-Density Residential
- G. Surrounding Land Uses: North: Residential Dwellings (R-3 Residential)  
South: Residential Dwellings (R-3 Residential)  
East: P-D(315) Planned Development P-O Uses  
West: Residential Units (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):

The applicant proposes to rezone the parcel from R-3, Medium-High Density Residential Zone to P-D, Planned Development Zone, to convert the existing 2,002-square-foot residence into a medical office building. The existing garage will be removed to provide additional parking as required by City of Modesto Standards. The project is located on a 15,355-square-foot lot at 2013 Coffee Road, south of Athens Drive.

As part of the development the project will also include a parking area, a five-foot-minimum landscape planter, and a six-foot-high solid double-sided alternating-board fence with decorative masonry pilasters. Street improvements are not required as there is an existing driveway located towards the south end of the parcel. As per Public Works' request, a driveway throat depth of 50 feet to the first parking space has been provided on the plans. The parking area will be located to the rear (west side) of the property and will provide a total of 11 parking spaces exceeding the minimum requirement of 10 spaces. All outdoor lighting will be required to be shielded from adjacent residential properties.

- 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:

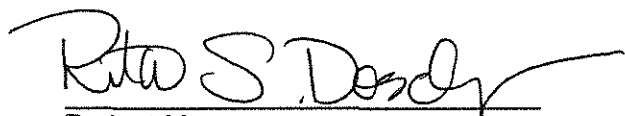
- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City 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

July 29, 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 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-3 (Medium High Residential) to P-D (Planned Development Zone) in order to facilitate development of a medical office. The conversion to an 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 10 spaces exceeding the minimum requirement of 9 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.	<input type="checkbox"/>	X

## DISCUSSION:

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

## **4. AGRICULTURAL LANDS**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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 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 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. 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 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-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 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.   | <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 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.  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.

**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.*

This office project will not generate additional waste that will impact facilities. The proposed project is a rezoning from a high-density residential zone to a planned development zone with minor modifications to the property.

**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"/>	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.  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.

**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.  YES  NO
- (2) The project includes a substantive amendment to the Modesto Urban Area General Plan.  YES  NO
- (3) The project would physically divide an established community.  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) 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. 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. 2005-467**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED  
DEVELOPMENT ZONE, P-D(573). (MUTUAL VENTURE PARTNERS)**

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by Mid Valley Engineering on January 24, 2005, to reclassify from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(573), to allow the development of a medical office building and associated parking, property located on the west side of Coffee Road north of Rumble Road, described as follows,

R-1 to P-D(573)

All that portion of the East half of the Southeast quarter of Section 9, Township 3 South, Range 9 East, M.D.B. & M., particularly described as follows:

Commencing at the Southeast corner of said Section 9, thence North 89 degrees 37' West along the Section Line 20.00 feet; thence North 0 degrees 50' 30" West along the West line of a 40-foot county road, 499.00 feet to the True Point of Beginning of this description; thence continuing North 0 degrees 50' 30" West along the West Line of said 40-foot county road, 158.00 feet; thence South 89 degrees 37' West, 278.00 feet; thence South 0 degrees 50' 30" East 158.00 feet; thence South 89 degrees 37' 00" East, 278.00 feet to the True Point of Beginning of this description. Excepting there from that 20-foot strip of land granted to the City of Modesto, a municipal Corporation, by instrument recorded August 16, 1990, as Document No. 70854, 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 April 18, 2005, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, the Planning Commission, by its Resolution No. 2005-20, voted to recommend approval to the City Council of the Planned Development Zone to allow construction of an office complex, and

WHEREAS, following the April, 18, 2005, the Planning Commission public hearing the applicant made changes to the design of the office complex and the application was referred back to the Planning Commission in order to provide the Commission an opportunity to review the proposed changes made to the previously reviewed project, and

WHEREAS, after a public hearing held on July 18, 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. 2005-34, 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.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 13, 2005, 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 Mid Valley Engineering 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. 2005-34 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3395-C.S. on the 13th day of September, 2005, reclassifying the above-described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(573).

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

1. All development shall conform to the plot plan and floor plans titled "Coffee Road Professional Office Complex Plot Plan" as amended in red, stamped approved by the City Council on September 13, 2005.
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. Fences or walls shall be constructed prior to occupancy and shall be as follows:
  - a. Install a seven-foot-high masonry wall along the west property line adjacent to the residential dwelling units.
  - b. Install six-foot-high board fence with decorative masonry pilasters at 16-foot-on-centers, along the south property line on that portion of the property adjacent to the office building.

- c. Install six-foot-high, "batten board" fence with decorative masonry pilasters at 16-foot-on-centers, along the north and south property line on that portion of the site adjacent to the parking area and the driveway access.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. 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.
6. 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.
7. 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.
8. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
9. 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.
10. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
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. 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.
13. 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.
14. 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.
15. All signs shall comply with the sign requirements of the P-O Zone.
16. 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.
17. 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.
18. 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 north and south, substantially as shown in red on the plot plan.
19. 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.

20. The proposed driveway on Coffee Road shall be drop-curb type. The driveway width shall be 30 feet.
21. 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.

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:

22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.



28. 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.
29. 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(573):

The entire construction program shall be accomplished in one phase, construction to begin on or before September 13, 2007 and completion to be not later than September 13, 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 the ordinance reclassifying the above-described property to Planned Development Zone, P-D(573), becomes effective

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 September, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

By: [Signature]  
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-468**

**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(573), PROPERTY LOCATED AT 3109 COFFEE ROAD. (MUTUAL VENTURE PARTNERS)**

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, Mutual Venture Partners 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(573), to allow the development of a 7,612 square foot medical 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. 2005-11 (“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 21, 2005, 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. 2005-34 recommended to the City Council approval of the application of Mutual Venture Partners to amend section 9-3-9 of the zoning map to rezone from Low-Density Residential, (R-1), to Planned Development Zone, P-D(573), for the property located on the west side of Coffee Road north of Rumble Road, to allow the development of a medical office building and associated parking as set forth in said Resolution No. 2005-34, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on September 13, 2005, 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(573) for medical 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 13<sup>h</sup> day of September 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2005-11**

**City of Modesto**

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

**Initial Study C&ED No. (2005- 11)**

**For the proposed:**

**PDZ- Planned Development Zone**

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

**03/25/05**



**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: PDZ – Coffee Road Professional Office Complex
- B. Address or Location: 3109 Coffee Road
- C. Applicant: Mid-Valley Engineering, 1117 "L" Street, Modesto, CA. 95354
- 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
- F. Current Zoning Classification(s): P-D (371), Planned Development
- G. Surrounding Land Uses:
  - North: Residential Dwelling (R-1 Residential)
  - South: Residential Dwelling (R-1 Residential)
  - East: Residential & Apartments (R-1 & P-D (84))
  - West: Residential Units (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 office complex. The proposed development will consist of two single story office buildings each 4,500 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-footwide driveway. The parking area will be located to the rear of the property and will provide a total of 46 spaces exceeding the minimum requirement of 45 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

March 31, 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 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 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"/>	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

	YES	NO
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<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 46 spaces exceeding the minimum requirement of 45 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 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 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 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. 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 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-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 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.  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.  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.*

This office project will not generate additional waste that will impact facilities. The proposed project is an amendment to the existing Planned development zone with no physical modification to the property.



**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"/> | X  |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

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

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

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

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (Mixed Use) 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 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. 2005-469**

**A RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED  
ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR  
FISCAL YEAR 2004-2005, AND AUTHORIZING THE CITY MANAGER 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, 2004, through June 30, 2005, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, the CAPER was made available for public review and comment from August 14, 2005, through September 13, 2005, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on August 26, 2005, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 13, 2005, 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 2004-2005 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 13<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-470**

**A RESOLUTION APPROVING THE CITY OF MODESTO CITIZENS  
PARTICIPATION PLAN, AND AUTHORIZING THE CITY MANAGER 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 Department of Housing and Urban Development requires jurisdictions receiving funds to publish a Citizens Participation Plan (CPP), and

WHEREAS, this plan must set forth the jurisdiction's policies and procedures for citizen participation as stated in 24 CFR 91.105 (b)(1), and

WHEREAS, the purpose of this plan is to encourage citizen participation, and

WHEREAS, the citizen participation plan must provide for and encourage citizens to participate in the development of the Consolidated Plan, any substantial amendments to the Consolidated or Annual Action plan, the Annual Action Plan, and the Consolidated Annual Performance Evaluation Report-(CAPER) and

WHEREAS, it is unknown when the City last updated it's CPP, so an updated copy has been produced to ensure not only compliance with HUD regulations but also that the community knows how to participate in the documents which outline how the City's Community Development Block Grant, HOME Partnership Grant and Emergency Shelter Grant funds are used, and

WHEREAS, the CPP must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, the CPP was made available for public review and comment from August 14, 2005, through September 13, 2005, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on August 26, 2005, and reviewed and recommended the CPP, and

WHEREAS, a duly noticed public hearing was held by the Council on September 13, 2005, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CPP,

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

1. That the Citizens Participation Plan 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 13<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-471**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN  
THE SCOPE OF THE PROJECT COVERED BY THE TUOLUMNE RIVER  
REGIONAL PARK MASTER PLAN MASTER ENVIRONMENTAL IMPACT  
REPORT (SCH No. 2000022028): TUOLUMNE RIVER REGIONAL PARK  
GATEWAY PRECISE PLAN**

WHEREAS, the Tuolumne River Regional Park Joint Powers Authority prepared a Tuolumne River Regional Park Master Plan to guide the restoration and development of the Tuolumne River Regional Park, and

WHEREAS, on December 12, 2001, the City Council of the City of Modesto adopted Resolution No. 2001-663 which certified the Final Master Environmental Impact Report for the Tuolumne River Regional Park Master Plan (SCH No. 2000022028) (“TRRP MEIR”), adopted a Statement of Findings of Fact and Overriding Consideration and adopted a Mitigated Monitoring Plan, and

WHEREAS, in preparation for the development of the Gateway Parcel of the Tuolumne River Regional Park, EDAW, Inc. has prepared the Tuolumne River Regional Park Gateway Precise Plan (“Project”), which includes recreation, wildlife habitat and education and interpretation, 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 as being within the scope of the project, and



WHEREAS, the Parks, Recreation and Neighborhoods Department, by Initial Study EA/PR&N No. 2005-03, (SCH #2000022028) dated May 31, 2005, reviewed the proposed Project to determine whether the proposed project is within the scope of the project covered by the Master Environmental Impact Report for the Tuolumne River Regional Park (“TRRP MEIR”), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the TRRP MEIR, 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 TRRP MEIR, and

WHEREAS, in accordance with CEQA guidelines on June 2, 2005, the City caused to be published a 30-day notice of the City’s intent to make a finding that the proposed project confirms with the TRRP MEIR, and

WHEREAS, the TRRP Citizens Committee and the TRRP Commission met on August 10, 2005, and supported the recommendation to accept the Initial Study and approve the Precise Plan, and

WHEREAS, on September 13, 2005, the City Council reviewed and considered the Initial Study (SCH No. 2000022028) dated May 31, 2005, for the proposed development and construction of the Gateway Parcel of the Tuolumne River Regional Park Project, together with all comments received during the public review and circulation period and responses thereto, and

WHEREAS, on September 13, 2005, concurrently with this resolution, the City Council considered approving the proposed Tuolumne River Regional Park Gateway Parcel Precise Plan,

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 2005-03 (SCH # 2000022028) (“IS”) for the proposed Project, a copy of which is attached hereto and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Precise Plan is described in Chapter III of the Tuolumne River Regional Park Master Environmental Report (SCH No. 2000022028) (“TRRP MEIR”) and is a subsequent project under the TRRP MEIR.
2. All applicable policies, regulations and mitigation measures identified in the TRRP 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 TRRP MEIR as being within the scope of the TRRP MEIR.
4. Based on the Initial Study, the additional traffic, noise, air quality and other studies prepared in support of the Initial Study and the evidence, both oral and documentary, presented at the City Council meeting, the City Council further finds and determines:
  - a. The City is a lead agency identified in the TRRP MEIR.
  - b. The proposed subsequent project will have no additional significant effect as determined in CEQA Section 21157.1 that was not identified and examined in the TRRP MEIR.
  - c. No new or additional mitigation measures or alternatives, which were not previously identified in the TRRP MEIR, are required.
  - d. The proposed subsequent project is within the scope of the TRRP MEIR.
5. The Initial Study and all of the above-mentioned additional studies in support of the Initial Study and the evidence presented at the City Council meeting provide the substantial evidence to support findings 1 through 4 above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Section 21081.6 of the Public Resources Code, a mitigation monitoring

program is hereby adopted by incorporating the mitigation measures into the Project plan as set forth in the Mitigation Monitoring Plan, a copy of which is on file with the Parks, Recreation and Neighborhoods Department.

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 with the County Clerk's Office within five (5) working days of the date of this determination, pursuant to Section 21152 of the Public Resources Code.

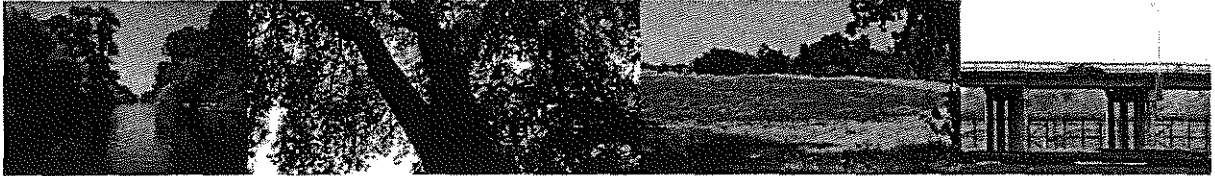
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of September 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



trrp.**gateway**.precise plan  
modesto . ceres . stanislaus county . california

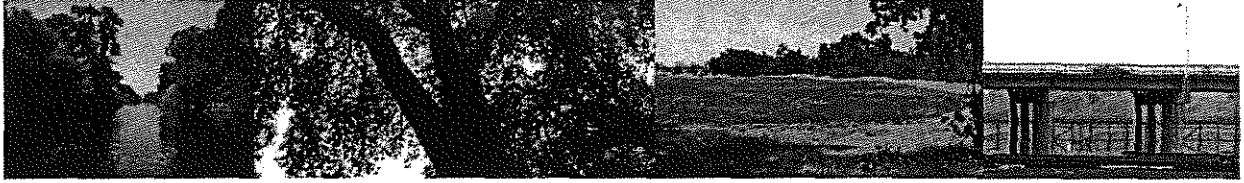
**Initial Study**  
(EA/PR&N 2005-03)

Prepared for:  
City of Modesto  
Parks, Recreation, and Neighborhoods

Prepared by:  
EDAW  
150 Chestnut Street  
San Francisco, CA 94111

September 13, 2005

**EDAW**



trrp.gateway.precise plan  
modesto . ceres . stanislaus county . california

Initial Study  
(EA/PR&N 2005-03)

Prepared for:

City of Modesto  
Parks, Recreation, and Neighborhoods  
1010 Tenth Street, Suite 4400  
Modesto, CA 95353

Contact:

Doug Critchfield  
209 577 5353

Prepared by:

EDAW  
150 Chestnut Street  
San Francisco, CA 94111

Contact:

Marie Galvin  
415 433 1484

September 13, 2005

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## Introduction and Overview

The City of Modesto, on behalf of the Tuolumne River Regional Park Commission (TRRP Commission) (comprised of the City of Modesto, the City of Ceres, and Stanislaus County), proposes to adopt and implement the Gateway Parcel Precise Plan, a component of the Tuolumne River Regional Park Master Plan, which was adopted by Stanislaus County, City of Ceres and City of Modesto by resolution in December 2001. The TRRP Master Plan is a long-range plan for a proposed 500-acre regional riverfront park, which extends along a seven-mile stretch of the Tuolumne River south of downtown Modesto. The Master Plan provides a long-range vision for the park to guide projects that are intended to enhance the natural environment as well as recreational and educational opportunities at the park. A Master Environmental Impact Report (Master EIR) for the TRRP Master Plan was certified by the City of Modesto in September 2001.

The Gateway Parcel is one of six planning areas addressed in the TRRP Master Plan. The TRRP Commission envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan. The Gateway Parcel Precise Plan is intended to achieve the objectives of the Master Plan and provides additional design detail needed to implement the proposed park improvements within the Gateway Parcel.

The TRRP Master Plan Master EIR evaluated the Gateway Parcel and its potential environmental impacts in a general, program-level manner because sufficient information regarding the Gateway Parcel improvements was not available at the time the Master Plan was prepared. The California Environmental Quality Act (CEQA) of 1970 (as amended) requires full assessment of the potential environmental impacts of the proposed project prior to implementation and construction. The Gateway Parcel Precise Plan provides the additional detail needed to conduct a full assessment of the potential impacts. These impacts are addressed in this Initial Study. The Initial Study tiers off of the Master EIR and incorporates by reference specific analyses as indicated.<sup>1</sup>

## Purpose of the Initial Study and the Master EIR Process

This Initial Study is intended to inform the City of Modesto, City of Ceres, County of Stanislaus, responsible and trustee agencies, and the public of the environmental consequences of implementation of the Gateway Parcel Precise Plan. This Initial Study was prepared in accordance with CEQA (Public Resources Code Sections 21000-21177) and the State CEQA Guidelines (California Code of Regulations Title 14, Chapter 3, Sections 15000-15387). The City of Modesto is the Lead Agency for CEQA review, and the City of Ceres and Stanislaus County are responsible agencies under CEQA.

The City of Modesto prepared a Master EIR for the TRRP Master Plan to assess the impacts of implementation of the TRRP Master Plan and identify appropriate mitigation measures for potentially significant environmental impacts. According to CEQA, a Master EIR may be prepared for a general plan, general plan amendment or element, specific plan, or a project that consists of smaller individual projects which will be carried out in phases (Public Resources Code, Section 21157(a)). The Master EIR may identify subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts (Public Resources Code 21157(b)(3)).

The Master EIR process may allow for streamlined review of subsequent projects that were described in the Master EIR as being within the scope of the report (Public Resources Code 21157.1). To determine if a

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<sup>1</sup> "Tiering" refers to coverage of general matters in broader EIRs (e.g., a Program EIR or Master EIR on a general plan or master plan) with related, subsequent narrower EIRs or Negative Declarations (e.g., a focused EIR or a site-specific EIR). The subsequent, site-specific environmental document incorporates by reference the general discussions from the broader EIR and concentrates solely on the issues specific to the subsequent project. (CEQA Guidelines Section 15385)

subsequent project will qualify for streamlined review, the City of Modesto, as Lead Agency, must prepare an Initial Study on any proposed subsequent project. The Initial Study shall analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, and whether the project was described in the Master EIR as being within the scope of the report. If the City of Modesto, based on the Initial Study, determines that the proposed subsequent project will have no additional significant effect on the environment that was not identified in the Master EIR, and that no new or additional mitigation measures or alternatives may be required, it shall make a written finding that the subsequent project is within the scope of the project covered by the Master EIR. No new environmental documentation or findings shall be required in this case. If the City of Modesto cannot make this finding, it shall prepare either a Mitigated Negative Declaration or an EIR on the subsequent project.

## **Project Goals and Objectives**

The goals of the TRRP Master Plan, presented below, are intended to provide overall guidance for the design and management of the park.

- Create a park where the recreational experience is oriented towards and compatible with the Tuolumne River, its water, natural resources, and processes.
- Provide a park that is a source of pride for the citizens of Stanislaus County and reflects and accommodates the County's diverse peoples and cultures.

The TRRP Master Plan also identifies specific objectives concerning land use and recreation, circulation and parking, vegetation and wildlife, aquatic resources, and hydrology and water quality. These objectives are presented in the Master Plan.

The Gateway Parcel Precise Plan would further the goals and objectives of the TRRP Master Plan by providing the following:

- A landscaped park with native vegetation and a restored riparian corridor
- Trails extending through the park and restored riparian terraces
- A fishing pier and river overlook with views of the Tuolumne River
- Multi-use meadows for picnicking and passive recreation
- A gathering space for Farmers' Markets and community events
- An amphimeadow for concerts and performances

## **Project Description**

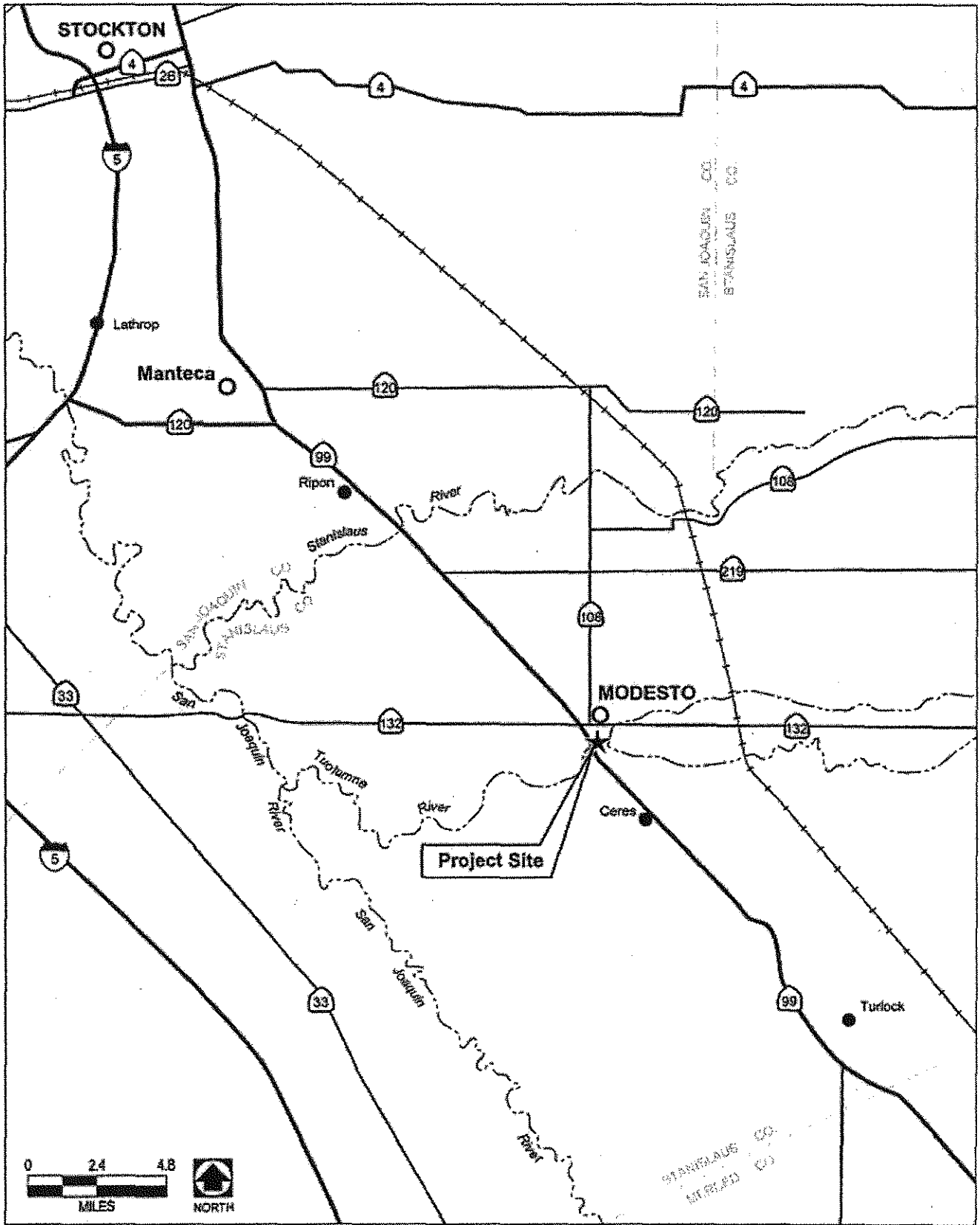
### **Location**

The Gateway Parcel encompasses approximately 90 acres north of the Tuolumne River within the City of Modesto in Stanislaus County (see Figure 1). The project site extends along the north bank of the Tuolumne River from the west bank of Dry Creek to just west of SR 99, and north to Tuolumne Boulevard and Morton Boulevard (see Figure 2).

Land uses surrounding the Gateway Parcel include industrial uses such as warehouses, distribution centers, and food processing facilities to the north; industrial uses within the Gallo Winery complex to the east; commercial retail uses across Tuolumne River to the south; and residential uses across SR 99 to the west.



**Regional Setting**



Source: California State Automobile Association, Bay and Mountain Section 1999

**Figure 1**



Source: USGS Salida, Ceres, & Riverbank Quads 1969 (photorevised 1987) -- Contour Interval 5 Feet  
 USGS Brush Lake Quad 1969 (photoinspected 1976) -- Contour Interval 5 Feet

Figure 2

The project site is generally composed of relatively flat, riverfront land within the Tuolumne River's 100-year floodplain with elevations ranging from 55 to 60 feet above mean sea level. The site was previously a walnut orchard but currently consists of disked open land and is no longer used for agriculture. Little vegetation exists on the site, except for a stand of valley oaks near the confluence of Dry Creek and the Tuolumne River, and a narrow strip of riparian vegetation along both waterways.

## Proposed Facilities

The Gateway Parcel is the first phase of development for the TRRP. With over 500 acres of land along a seven-mile stretch of the Tuolumne River, the TRRP is bounded by Mitchell Road to the east and by Carpenter Road to the west. The Gateway Parcel of the TRRP was acquired by the TRRP Joint Powers Authority (comprised of Stanislaus County and the Cities of Ceres and Modesto) in 1995 and provides a pivotal link in the chain of park land along the Tuolumne. The Gateway Parcel is a remnant walnut orchard at the foot of 10th Street. The goal of the TRRP project is to create a park where the recreational experience is oriented towards and compatible with the Tuolumne River, its water, natural resources, and processes. The park design accommodates multiple purposes including recreation, wildlife habitat, and education and interpretation. Large public gathering areas will be located on the Gateway Parcel, including a 3,000-person, grassy outdoor amphitheater or amphimeadow. Project plans for the Gateway Parcel include a paved pedestrian and bike trail, compacted earth pathways, expansion of Tuolumne Boulevard and adjacent sidewalks, paved and turf-block parking areas, platform overlooks on the river, and a pedestrian and bicycle bridge over Dry Creek. In addition, the Gateway Parcel will be terraced to improve connectivity between the Tuolumne River and its floodplain and to revitalize its riparian vegetation.

For the purposes of analysis, this Initial Study assumes that the Tuolumne Boulevard extension will be constructed prior to operation of the park's event facilities, which include the amphimeadow and the farmer's market area. However, construction of the Tuolumne Boulevard extension may not occur for several years due to funding issues. Additionally, the project site is within a redevelopment area and substantial growth may occur in the site vicinity over the next several years. Consequently, future traffic conditions may differ from the traffic projections and assumptions developed for this Initial Study.

To address this uncertainty, no large special events, amphimeadow events, or farmer's market events will be allowed in the park until the Tuolumne Boulevard extension is constructed or an alternate access to the park is provided. In the meantime, passive recreation activities and smaller, informal gatherings that would not result in significant traffic impacts will be allowed to occur within the park. When construction of Tuolumne Boulevard extension occurs or an alternate access to the park is provided, a new traffic study will be prepared to assess the impacts of these events, and the project will undergo further environmental review.

The main elements of the Gateway Parcel Precise Plan are illustrated in Figure 3 and are described in further detail below.

### Amphimeadow

An amphimeadow is proposed near Dry Creek on the eastern edge of the Gateway Parcel. The amphimeadow is a 70,000-square-foot grassy outdoor amphitheater with a natural "meadow-like" setting that includes mowable grasses, decomposed granite paths, and narrow stone edges. No formal seating would be provided; audiences would sit on grassy slopes oriented toward the stage within the bowl-shaped landform. The amphimeadow would accommodate up to 3,000 people for concerts and other performances and community events. The amphimeadow would host performances during the summer months, while in the winter the space would go dormant and visually merge with the surrounding riparian vegetation.

As noted above, no large events will be allowed at the amphimeadow until the Tuolumne Boulevard extension is constructed or an alternate access is provided.

Illustrative Site Plan

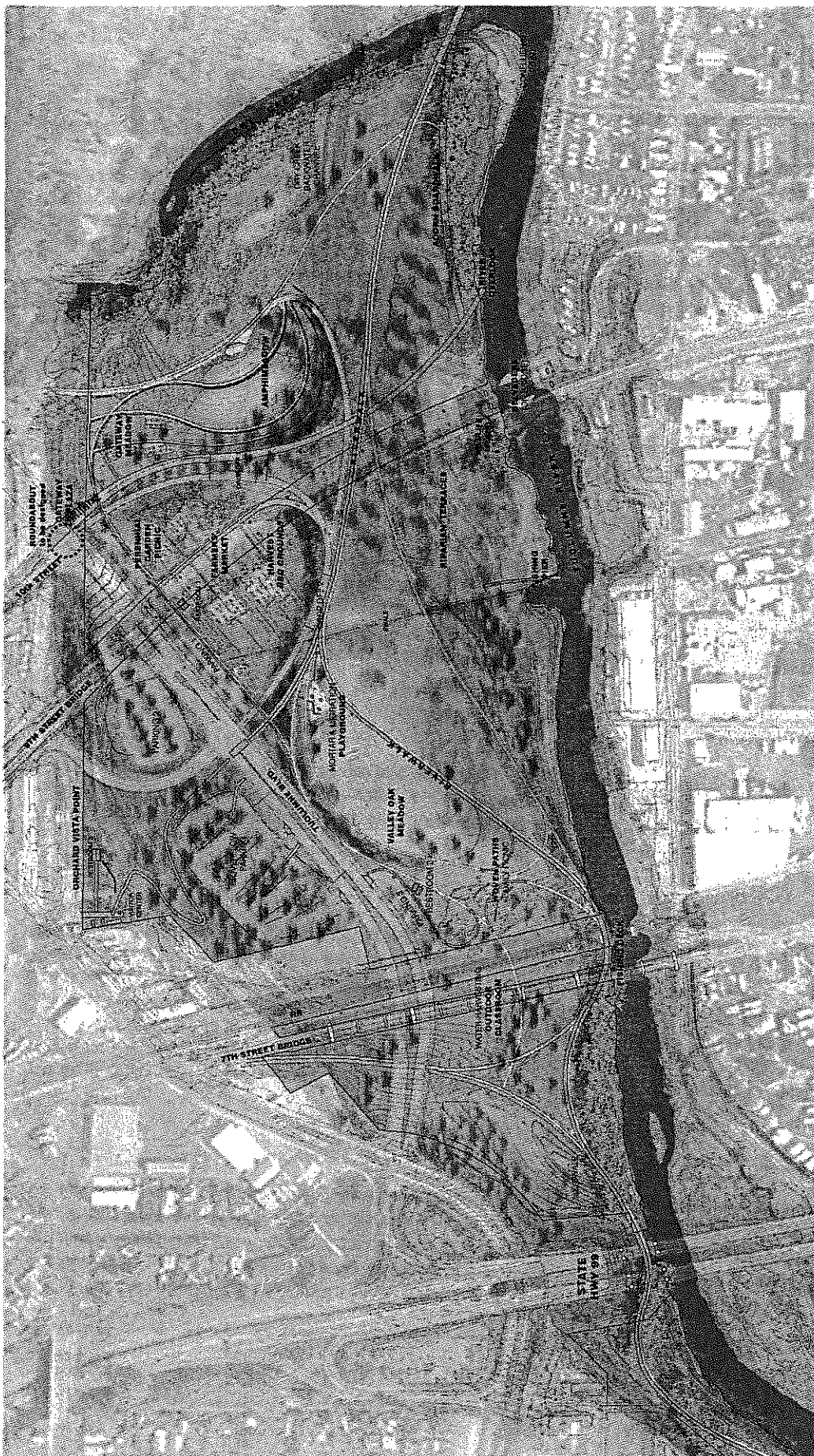


Figure 3

HD&W  
DRAFT Initial Study



## Farmers' Market

The area adjacent to the newly replaced Ninth Street Bridge provides space for small gatherings, group picnics, and weekly community events, such as a farmers' market. This area, which is enclosed by the only vehicular road south of the Tuolumne Boulevard, would be a very active space with easy access. The Farmers' Market area is an arching landform with four large stepping terraces, where seasonal native meadow vegetation would be planted in rows to celebrate the agricultural past of the site and resemble fields with patches of color. The four terraces would provide 16 large market sites (each comprising approximately 300 square feet) and 64 small market sites (comprising approximately 50 square feet each) for temporary vending stalls. Five picnic areas would provide approximately 250 picnic tables for public use. A farming heritage play area would also be provided near the Farmers' Market on a seasonal basis. Other features within the Farmers' Market area would include restroom facilities, parking, and gravel swales for drainage.

As noted above, no large special events or farmer's market events will be allowed at the amphimeadow until the Tuolumne Boulevard extension is constructed or an alternate access is provided.

The TRRP Master Plan, the TRRP Master Plan Master EIR, and this Initial Study all assume that up to 15,000 people would attend special events at the Farmers' Market.

## Valley Oak Meadow

This would be a multi-use meadow offering picnic and playground facilities as well as passive recreation opportunities. The playground would include alternative play equipment in earth tones to blend with the surrounding landscape and would include some interpretive features. The meadow would be planted with low, native grasses and would provide opportunities for passive recreation activities such as walking, casual play, Frisbee, and kite-flying. The Valley Oak Meadow would also provide family picnic sites and restroom facilities.

## Outdoor Classroom

An area near the Seventh Street bridge would contain benches and tables for educational use. From this area, visitors would be able to observe the Tuolumne River and stormwater management facilities, and take interpretive walks along the park trails. This area would also provide an opportunity to display interpretive signage at the historic Seventh Street bridge.

## The Riverwalk

Diverse paths will run parallel to the Tuolumne River providing the opportunity to walk along the riparian edge and to access the river from strategic points. The Riverwalk is thus not a single path, but a braided system of pathways and trails that traverse the site from east to west and connects the Gateway Parcel with the rest of the sites of the Tuolumne River Regional Park. The configuration of the Riverwalk allows for different visual and physical levels of contact with the river, while facilitating better understanding of the diverse plant communities and habitats of the riparian terraces. The Riverwalk provides access to the riparian terraces and opportunities to observe restoration areas. All of the paths comply with Americans with Disabilities Act (ADA) standards.

## The Acorn Boardwalk

The 500-foot-long boardwalk located near the confluence of Tuolumne River and Dry Creek is a feature intended to protect the roots of the existing Valley Oaks from foot traffic, and to provide an opportunity to appreciate and learn about the riparian restoration on site. The handrail of the Acorn Boardwalk acts as a mechanism to discourage people from stepping onto the lower terraces at Confluence Point. It is also a feature to display interpretive signage, and an interactive interpretive installation where kids can collect the

Valley Oak acorns, and learn about the traditional practices of the Yokuts (the Native Americans who inhabited this part of the Central Valley).

### Fishing Deck

This feature would be constructed near the Seventh Street bridge at the edge of the Tuolumne River. The 18-foot-wide deck would provide a view of the river and its riparian corridor as well as fishing access.

### Fishing Pier

The fishing pier, an eight-foot-wide boardwalk on pylons, would be constructed on top of the riparian terraces and would extend into the Tuolumne River bed. The pier would allow visitors to stand approximately three feet above the water surface for fishing or observation.

### River Overlook

The River Overlook would consist of a path extending from Tenth Street south through the Gateway Parcel to the Tuolumne River. The southernmost portion of the River Overlook would be elevated on a 20-foot-high boardwalk above the riparian terraces that would extend to the river's edge.

### Orchard Vista Point

Located on top of a bluff to the north of the Gateway Parcel, the Orchard Vista Point contains existing vacant buildings that could serve as the site of a visitor/interpretation center. Its elevated vantage point offers views of the Gateway Parcel. Restroom facilities and family picnic sites are proposed at this site.

### Pedestrian Bridge

A pedestrian bridge is proposed near the confluence point of the Tuolumne River and Dry Creek. The 170-foot-long, 12-foot-wide bow truss bridge would extend from the eastern edge of the Gateway Parcel across Dry Creek to the Gallo property. This bridge is intended to eventually connect the Gateway Parcel to other park sites within Tuolumne River Regional Park, as proposed in the TRRP Master Plan.

### Project Schedule

Implementation of the Gateway Parcel Precise Plan is divided into three phases. Phasing of the project will assure necessary funding is secured, and will allow time for the restoration area to establish.

**Phase 1** would include site grading, riparian restoration, backwater channel, trail from Bearbrook Park to confluence point, pedestrian bridge over Dry Creek, grading of amphimeadow, grading of farmer's market area.

**Phase 2** would include the development of the Riverwalk trail and landscape.

**Phase 3** would include the remaining trails, Seventh Street stormwater swale, river overlook, fishing pier, vista point, playgrounds, picnic sites, amphimeadow walls, restroom facilities, and all parking areas.

While grading of the amphimeadow and farmer's market area occurs in Phase 1, operation of these facilities for large events will not be allowed until the Tuolumne Boulevard extension is constructed or an alternate access is provided. Many of the components included in Phase 3, such as the parking areas and restroom facilities, will not be constructed until the Tuolumne Boulevard extension is constructed or an alternate access is provided.



Construction is scheduled to begin in Spring 2006.

### **Permits Required**

Permits may be required from the following agencies:

- U.S. Army Corps of Engineers – Nationwide Permit for construction within jurisdictional waters of the U.S.
- California Department of Fish and Game – Section 1601 Streambed Alteration Agreement
- Regional Water Quality Control Board – Section 401 Water Quality Certification
- U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration (NOAA) Fisheries – Section 7 Consultation
- California Reclamation Board – permit for construction within floodways under the Reclamation Board's jurisdiction, in accordance with Section 8710 of the California Water Code
- San Joaquin Valley Air Pollution Control District – authority to construct and permit to operate
- State Lands Commission – lease for construction within jurisdictional waterways
- Stanislaus County Airport Land Use Commission – confirm the project is a compatible use within Area 4 of the Modesto airport planning area boundary, and is consistent with the Stanislaus County Airport Land Use Commission Plan

## Environmental Checklist Form

- 1. Project Title:** Tuolumne River Regional Park Gateway Precise Plan
- 2. Lead Agency Name and Address:** City of Modesto  
Parks, Recreation and Neighborhoods  
1010 Tenth Street, Suite 4400  
Modesto, California 95353
- 3. Contact Person and Phone Number:** Doug Critchfield, Manager  
Parks Planning and Development  
209 577 5353
- 4. Project Location:** City of Modesto
- 5. Project Sponsor's Name and Address:** Tuolumne River Regional Park Commission  
c/o City of Modesto  
Parks, Recreation and Neighborhoods  
P.O. Box 642  
Modesto, California 95353
- 6. General Plan Designation:** Open Space
- 7. Zoning:** R-1

### 8. Description of Project

The Gateway Parcel is the first phase of development for the Tuolumne River Regional Park (TRRP). The TRRP consists of over 500 acres of land along a seven-mile stretch of the Tuolumne River that is bounded by Mitchell Road to the east and by Carpenter Road to the west. The Gateway Parcel of the TRRP was acquired by the TRRP Joint Powers Authority (comprised of Stanislaus County and the Cities of Ceres and Modesto) in 1995 and provides a pivotal link in the chain of park land along the Tuolumne River. The 90-acre Gateway Parcel is a remnant walnut orchard at the foot of Tenth Street. The goal of the TRRP project is to create a park where the recreational experience is oriented towards and compatible with the Tuolumne River, its water, natural resources, and processes. The park design accommodates multiple purposes including recreation, wildlife habitat, and education and interpretation. Large public gathering areas will be located on the Gateway Parcel, including a 3,000-person, grassy outdoor amphitheater or amphimeadow. Project plans for the Gateway Parcel include a paved pedestrian and bike trail, compacted earth pathways, expansion of Tuolumne Boulevard and adjacent sidewalks, paved and turf-block parking areas, platform overlooks on the river, and a pedestrian and bicycle bridge over Dry Creek. In addition, the Gateway Parcel will be terraced to improve connectivity between the Tuolumne River and its floodplain and to revitalize its riparian vegetation.

### 9. Surrounding Land Uses and Setting

Land uses surrounding the Gateway parcel include industrial uses such as warehouses, distribution centers, and food processing facilities to the north; industrial uses within the Gallo Winery complex to the east; commercial retail uses across Tuolumne River to the south; and residential uses across SR 99 to the west.

### 10. Other Public Agencies Whose Approval may be Required

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service and NOAA Fisheries
- California Department of Fish and Game
- Regional Water Quality Control Board
- State Reclamation Board
- San Joaquin Valley Air Pollution Control District
- State Lands Commission
- Stanislaus County Airport Land Use Commission



**Environmental Factors Potentially Affected**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources              | <input checked="" type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology/Soils                     |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality            | <input type="checkbox"/> Land Use/Planning                 |
| <input type="checkbox"/> Mineral Resources             | <input checked="" type="checkbox"/> Noise                   | <input type="checkbox"/> Population/Housing                |
| <input type="checkbox"/> Public Services               | <input type="checkbox"/> Recreation                         | <input checked="" type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems     | <input type="checkbox"/> Mandatory Findings of Significance |  |

**Determination**

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

May 31, 2005

Date

Jim Niskanen

Printed Name

May 31, 2005

Date

	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 within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Environmental Setting

The Gateway Parcel is composed of relatively flat, riverfront land along the north bank of the Tuolumne River, a significant natural landscape feature. The visual experience of the river corridor includes areas that are of high visual quality, and other areas where the visual environment has been degraded by previous agricultural operations. Visual characteristics of the former walnut orchard include disked agricultural fields throughout most of the property, and a stand of majestic, mature valley oaks near the confluence of Dry Creek and the Tuolumne River. A narrow strip of riparian vegetation extends along both waterways along the site's eastern and southern boundaries.

Existing transportation infrastructure in the area presents prominent features in the visual landscape. The elevated, concrete State Route (SR) 99 bridge extends north-south through the western portion of the site. The wooden Union Pacific Railroad bridge and the concrete Seventh Street bridge, both elevated structures, extend through the center of the Gateway Parcel, parallel to the SR 99 bridge. The Seventh Street bridge is a historic landmark which includes Beaux Arts classical detail with two concrete lions standing guard at each portal. Utility lines and poles extend along the eastern side of the Union Pacific Railroad bridge. The Ninth Street bridge, another elevated concrete roadway, is east of the Union Pacific Railroad bridge and extends north-south across the project site, parallel to Dry Creek.

The Gateway Parcel is visible to motorists from the Seventh Street, Ninth Street and SR 99 bridges, and to train passengers from the Union Pacific Railroad bridge.

## Discussion

### a) Scenic Vistas

The Gateway Parcel Precise Plan would not adversely affect any scenic vistas. Due to the existing visual character of the site, views of the Gateway Parcel from elevated roadways and bridges in the site vicinity would improve following implementation of the Precise Plan, since current views of the site include degraded, disked agricultural land. The Precise Plan would improve the appearance of the site from nearby viewpoints.

### b) Scenic Resources

The Gateway Parcel Precise Plan would remove 11 trees from the site (see Figure 4). These include trees that were severely damaged as well as non-native trees. The proposed planting plan would plant approximately 90 trees on the property as well as other vegetation. The mature oak woodland would not be affected. The affected trees are scattered within the riparian corridor along the eastern and southern boundaries of the Gateway Parcel, and their removal would not be noticeable from nearby bridges and roadways. The removal of 11 trees would not substantially affect scenic views, and the proposed planting plan would improve the appearance of the Gateway Parcel. Therefore, this impact is considered less than significant.

### c) Visual Character

Implementation of the Gateway Parcel Precise Plan would transform the disked former agricultural fields present on the site into a regional park that offers a recreational experience oriented towards and compatible with the Tuolumne River. The Precise Plan would restore the degraded riparian corridor, and provide recreation opportunities and a gathering space for community events. The proposed planting plan is intended to change the visual character of the site from unused, degraded agricultural land to natural, vegetated meadow and riparian corridor. Therefore, the Precise Plan would improve the visual character of the site and no adverse impact would occur.

### d) Light and Glare

The Gateway Parcel Precise Plan includes a lighting plan for the park. Along the riverwalk and in public gathering areas in the northern portion of the park, light posts would be installed for illumination and public safety. In restoration areas in the southern and eastern portions of the site, low wattage, solar-powered lights are proposed along trails to provide low-level lighting for public safety while minimizing lighting effects on the restoration areas. Bollard lights, approximately three feet tall, would also be installed to provide lighting that is low to the ground to further minimize glare. All lighting would be directed downward with higher wattage lighting located in the high use areas of the park, near the downtown, and low wattage lights placed along trails in the restoration areas near the Tuolumne River and Dry Creek.

The closest residences are located across the Tuolumne River, approximately 1,000 feet south of the Gateway Parcel. The Precise Plan would increase lighting on the Gateway Parcel. However, the brighter light posts would be placed in the northern portion of the site, away from residences. Low-wattage lights would be installed along the Riverwalk and along trails within the restoration area, as required for public safety. However, these lights would not generate substantial glare. Existing vegetation within the Tuolumne River riparian corridor as well as proposed plantings would provide screening which would minimize potential glare effects. Therefore, this impact is considered less than significant.



The placement shown on 12 September 2024 by M. DeLuca, Forestry Superintendent for the City of Modesto.  
 Date: 8/29/24 Sacramento, 5:30 PM. 5/20/24 at 12:00 PM Sacramento

Tree Legend		to be removed (#)
	Valley Oak <i>Quercus lobata</i>	(0)
	Boxelder <i>Acer negundo</i>	(1)
	Fremont Cottonwood <i>Populus fremontii</i>	(0)
	Weeping Willow <i>Salix babylonica</i>	(0)
	Black Walnut <i>Juglans nigra</i>	(3)
	English Walnut <i>Juglans spp.</i>	(3)
	Green Ash <i>Fraxinus pennsylvanica</i>	(0)
	Eucalyptus <i>Eucalyptus spp.</i>	(2)
	Silver Maple <i>Acer saccharinum</i>	(2)
	Pecan <i>Carya illinoensis</i>	(0)
Total number of trees to be removed		(11)

**Recommended Tree Removals**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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**II. Agricultural Resources.**

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997, as updated) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use or 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, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

**a-c) Agricultural Resources**

The Gateway Parcel is designated Prime Farmland by the California Department of Conservation on the 1990 Stanislaus County Important Farmlands Map.<sup>2</sup> Loss of agricultural land within the designated urban area boundary of Modesto was analyzed in the Master EIR for the Urban Area General Plan, 2003. Through this process, the City of Modesto acknowledged and made findings that if development was within the Baseline Developed Area as identified on the General Plan Growth Strategy Diagram, the project shall be considered to have a minimal effect on the conversion of agricultural lands, and no mitigation would be required (Modesto, 1995). The Gateway Parcel is within this boundary. No farmland would be converted outside the City of Modesto. Additionally, the Gateway Parcel's location within the floodplain makes it subject to flooding, and therefore it would be difficult to farm this site. For these reasons, the Gateway Parcel Precise Plan is not anticipated to result in loss of productive agricultural land.

The Gateway Parcel is not currently in agricultural use and is zoned for residential uses. The site is not under Williamson Act contract.

<sup>2</sup> City of Modesto, Final Master EIR of the Urban Area General Plan, 1995. Figure 4-1.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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**III. Air Quality.**

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations.

Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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"/>

**Environmental Setting**

The Master EIR presents relevant air quality setting information. The Gateway Parcel Precise Plan is consistent with the Master EIR, and the facilities proposed in the Precise Plan were addressed in the Master EIR. Since publication of the TRRP Master Plan Master EIR, no changes or new information relating to the proposed facilities in the Gateway Parcel have occurred that would alter the findings in the Master EIR. However, the attainment status of the region has changed since the Master EIR was published. Currently, the San Joaquin Valley is classified as serious non-attainment for the federal eight-hour ground-level ozone standard, serious non-attainment for particulate matter less than 10 microns in diameter (PM10) standard, and non-attainment for particulate matter less than 2.5 microns in diameter (PM2.5) standard. Additionally, the Valley is classified as severe non-attainment for the California ozone standard and non-attainment for the state's PM10 standard. The Modesto area is classified as attainment for carbon monoxide and all other criteria air pollutants. A change in attainment status does not change the impact determination presented in the Master EIR.

The following discussion is based on the air quality analysis conducted in August 2005 using the URBEMIS Version 8.7.0, the most recent air quality modeling computer program.

## Discussion

### a-c, d) Construction-related Impacts

Construction activities associated with the Gateway Parcel Precise Plan would temporarily generate short-term emissions of ROG, NO<sub>x</sub>, and PM<sub>10</sub> during clearing, grading, and general construction activities. The emissions produced during clearing, grading, and general construction activities are "short-term" in the sense that they would be limited to the construction period, and would only be experienced downwind of the project site.

Short-term construction air pollutant emissions of ROG, NO<sub>x</sub>, and PM<sub>10</sub> were assessed using the URBEMIS 2002 Version 8.7.0 computer program for the Gateway Parcel and the Road Construction Emissions Model Version 5.1 for the Trail Construction and the Roadway Improvements. Table 1 summarizes yearly construction emissions for the project based on the type of land uses to be developed and the types of construction equipment that would be used.

Emissions Source	ROG (tons/year)	NO <sub>x</sub> (tons/year)	PM <sub>10</sub> (tons/year)
<b>Construction Emissions</b>			
Gateway Parcel	0.04	0.30	0.11
Pedestrian and Bike Trail	0.77	4.31	0.23
Roadway Improvements	0.69	4.00	0.23
<b>Total Construction Emissions</b>	<b>1.50</b>	<b>8.61</b>	<b>0.73</b>
<b>SJVAPCD Significance Thresholds</b>	<b>10</b>	<b>10</b>	<b>-</b>
Detailed input parameters and modeling results are on file at the City of Modesto Parks, Recreation and Neighborhoods Department. PM <sub>10</sub> concentrations are mobile emissions only (does not include fugitive dust emissions). Source: EDAW 2005; Guerra, Hector. SJVAPCD Senior Air Quality Planner. Phone conversation with Heather Phillips of EDAW. July 26, 2005			

As shown in Table 1, project-generated construction and operational air pollutant emissions of ROG and NO<sub>x</sub> would not exceed the significance thresholds.

Emissions would be generated primarily during excavation and grading activities associated with the construction of the proposed amphimeadow, riparian terraces, trails, bike paths, and parking facilities. Emissions would vary substantially from day-to-day and could potentially produce substantial amounts of PM<sub>10</sub>. This is considered a potentially significant impact.

**Master EIR Mitigation Measure Air-1:** In accordance with Regulation VIII of the San Joaquin Valley Air Pollution Control District (SJVAPCD), which was amended in August 2004, the following measures shall be implemented to reduce short-term, construction-generated emissions:

### Pre-Construction

- All construction areas shall be sufficiently pre-watered to limit visible dust emissions to 20 percent opacity.
- Work shall be phased to reduce the amount of disturbed surface area at any one time.

### During Project Construction

- Water or chemical/organic stabilizers/suppressants shall be sufficiently applied to limit visible dust emissions to 20 percent opacity; or
- Wind barriers shall be constructed and maintained to limit visible dust emissions to 20 percent opacity. If utilizing wind barriers, the preceding dust control measure shall also be implemented.
- Water or chemical/organic stabilizers/suppressants shall be applied to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit visible dust emissions to 20 percent opacity and meet the conditions of a stabilized unpaved road surface.

### Carryout and Trackout

- The project will comply with the detailed requirements of Rule 8041 of SJVAPCD Regulation VIII. An owner/operator shall sufficiently prevent or cleanup carryout and trackout as specified below. The use of blower devices, or dry rotary brushes or brooms, for removal of carryout and trackout on public roads is expressly prohibited. The removal of carryout and trackout from paved public roads does not exempt an owner/operator from obtaining state or local agency permits which may be required for the cleanup of mud and dirt on paved public roads.
- Owners/operators shall remove all visible carryout and trackout at the end of each workday. Cleanup of carryout and trackout shall be accomplished by:
  - Manually sweeping and picking up;
  - Operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit visible dust emissions to 20 percent opacity;
  - Operating a PM10-efficient street sweeper that has a pick-up efficiency of at least 80 percent; or
  - Flushing with water, if curbs or gutters are not present and where the use of water will not result as a source of trackout material or result in adverse impacts on storm drainage systems or violate any National Pollutant Discharge Elimination System permit program.
- Carryout and trackout shall be prevented and mitigated by:
  - Installing and maintaining a trackout control device meeting the specifications contained in Section 5.9 at all access points to paved public roads; or
  - Using a carryout and trackout procedure which has been demonstrated to the satisfaction of the APCO and USEPA as achieving an equivalent or greater level of control than specified above.
- In the event that measures specified above are insufficient to prevent carryout and trackout, removal of any carryout and trackout must be accomplished within one-half hour of the generation of such carryout and trackout.

### Minimize Exhaust Emissions from Construction Equipment

- Use California Air Resources Board (CARB) certified alternative fueled engines in construction equipment and/or buses where practicable. Alternative fueled equipment may be powered by Compressed Natural Gas (CNG), Propane (LPG), electric motors, or other CARB certified off-



road technologies. To find engines certified by CARB, see their certification website:  
<http://www.arb.ca.gov/msprog/offroad/cert/cert.php>.

- Construction equipment should have engines that meet the current off-road engine emission standard (as certified by CARB), or be re-powered with an engine that meets this standard. Tier I and Tier II engines have significantly less NOx and PM emissions compared to uncontrolled engines. To find engines certified by CARB, see <http://www.arb.ca.gov/msprog/offroad/cert/cert.php>. This site lists engines by type, then manufacturer. The "Executive Order" shows what tier the engine is certified as.
- Diesel equipment should use verified alternative diesel fuel blends, biodiesel, or Ultra Low Sulfur Diesel (ULSD). CARB has verified specific alternative diesel fuel blends for Nox and PM emission reduction. Only fuels that have been verified by CARB should be used. Information on alternative diesel blends can also be found at CARB's website: <http://www.arb.ca.gov/fuels/diesel/altdiesel/altdiesel.htm>. Information on biodiesel can be found at USEPA's website: <http://www.epa.gov/oms/models/biodsl.htm>.
- Idle reduction technologies save fuel and reduce diesel emissions from idling trucks and construction equipment. The applicant should incorporate idle reduction strategies that reduce the main propulsion engine idling time through alternative technologies. Examples of such technologies can be found on the USEPA's website: <http://www.epa.gov/otaq/smartway/idlingtechnologies.htm>. Idle reduction mitigation measures include:
  - Require that all diesel engines be shut off when not in use on the premises to reduce emissions from idling.
  - Light duty cars and trucks should be alternative fueled or hybrids.

#### Asphalt Paving

- If asphalt paving will be used, then paving operations will be subject to Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations) of SJVAPCD Regulation IV. A person shall not manufacture for sale nor use any of the following for penetrating prime coat, tack coat, dust palliative, or other paving and maintenance operations:
  - Rapid cure cutback asphalt
  - Medium cure cutback asphalt
  - Slow cure asphalt which as produced for application, contains more than one-half (0.5) percent of organic compounds which evaporate at 500° F or lower.
  - Emulsified asphalt containing organic compounds, in excess of three (3) percent by volume, which evaporate at 500° F or lower.
- The City/contractor shall maintain records demonstrating compliance with Rule 4641.

#### Temporary Stabilization During Periods of Inactivity

- Vehicular access to the area shall be restricted; and
- Water or chemical/organic stabilizers/suppressants shall be applied to comply with the conditions of a stabilized surface. If an area having a disturbed surface area of 0.5 acre or more remains unused for seven or more days, the area must comply with the conditions for a stabilized surface area as defined in Section 3.58 of Rule 8011 of Regulation VIII.

#### Speed Limitations and Posting of Speed Limit Signs on Uncontrolled Unpaved Access/Haul Roads on Construction Sites

- The construction contractor shall limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.



- The construction contractor shall post speed limit signs that meet State and Federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.

#### Wind Generated Fugitive Dust Requirements

- Outdoor construction, excavation, extraction, and other earthmoving activities that disturb the soil shall cease whenever VDE exceeds 20 percent opacity.
- Operation of water trucks/devices shall continue when outdoor construction excavation, extraction, and other earthmoving activities cease, unless unsafe to do so.

#### Dust Control Plan

- The construction contractor shall submit a Dust Control Plan to the Air Pollution Control Officer (APCO) prior to the start of any construction activity on any site that will include 10 acres or more of disturbed surface area for residential developments, or 5 acres or more of disturbed surface area for non-residential development, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days.
- Construction activities shall not commence until the APCO has approved or conditionally approved the Dust Control Plan. An owner/operator shall provide written notification to the APCO within 10 days prior to the commencement of earthmoving activities via fax or mail. The requirement to submit a dust control plan shall apply to all such activities conducted for residential and non-residential (e.g., commercial, industrial, or institutional) purposes or conducted by any governmental entity.
- The Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during, and after any dust generating activity.
- The Dust Control Plan shall be prepared in accordance with SJVAPCD Regulation VIII. The APCO shall approve, disapprove, or conditionally approve the Dust Control Plan within 30 days of plan submittal. A Dust Control Plan is deemed automatically approved if, after 30 days following receipt by SJVAPCD, SJVAPCD does not provide any comments to the construction contractor or the lead agency regarding the Dust Control Plan.
- The construction contractor shall retain a copy of an approved Dust Control Plan at the project site. The approved Dust Control Plan shall remain valid until the termination of all dust generating activities. Failure to comply with the provisions of an approved Dust Control Plan is deemed to be a violation of SJVAPCD regulations. Regardless of whether an approved Dust Control Plan is in place or not, or even when the construction contractor responsible for the plan is complying with an approved Dust Control Plan, the construction contractor is still subject to comply with all requirements of the applicable rules under Regulation VIII at all times.

Implementation of the above mitigation measure would reduce short-term construction-generated emissions to less-than-significant levels.

#### Local Carbon Monoxide Emissions

Events occurring at the Gateway Parcel, such as special events and concerts, could result in potential increases in carbon monoxide concentrations, or "hot spots," in excess of State or federal air quality standards. These carbon monoxide concentrations could adversely affect sensitive receptors, which may be located in the project vicinity or walking to and from the special events. This is considered a potentially

significant impact. Implementation of Mitigation Measure Air-2 from the Master EIR would decrease the potential for carbon monoxide "hot spots".

**Master EIR Mitigation Measure Air-2:** When special events, including concerts, occur at the Gateway Parcel, the City of Modesto shall implement a traffic and parking management control plan, as recommended in mitigation measures contained in Chapter IV-A of the Master EIR. The smooth flow of traffic would decrease the potential for carbon monoxide "hot spots", which could occur if vehicles are idling for long periods of time in high concentrations.

This impact would remain significant and unavoidable following mitigation.

Precise Plan Mitigation Measure Traffic-1, presented in this Initial Study, describes the Traffic Management and Parking Plan prepared for the Gateway Parcel Precise Plan. Implementation of the Traffic Management and Parking Plan would improve traffic flow, which would reduce the potential for carbon monoxide "hot spots". However, it is unlikely that traffic congestion would be decreased enough to reduce the potential for high carbon monoxide concentrations when people are arriving or leaving large special events. For this reason, this is considered a significant and unavoidable impact for special events and concerts at the Gateway Parcel. This is consistent with the findings of the TRRP Master Plan Master EIR. The City of Modesto adopted a Statement of Overriding Considerations for the Master EIR that acknowledged this significant and unavoidable impact and determined that the benefits of the TRRP Master Plan outweigh the impacts. No new mitigation measures were identified which would change the conclusion made in the Master EIR.

As noted in the project description, no large special events, amphimeadow events, or farmer's market events will be allowed in the park until the Tuolumne Boulevard extension is constructed or an alternate access is provided.

### Exposure to Sensitive Receptors

Project construction would result in diesel exhaust emissions from on-site heavy duty equipment. Particulate exhaust emissions from diesel-fueled engines (diesel PM) were identified as a toxic air contaminant by the California Air Resources Board in 1998. Construction of the project would result in the generation of diesel PM emissions from the use of off-road diesel equipment required for site grading and excavation, paving, and other construction activities.

The dose to which the receptors are exposed is the primary factor used to determine health risk. Dose is a function of the concentration of a substance or substances in the environment and the extent of exposure that person has with the substance. Dose is positively correlated with time, meaning that a longer exposure period would result in a higher exposure level for the maximally exposed individual. Thus, the risks estimated for a maximally exposed individual are higher if a fixed exposure occurs over a longer period of time. According to the Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments, which determine the exposure of sensitive receptors to toxic emissions, should be based on a 70-year exposure period; however, such assessments should be limited to the period/duration of activities associated with the project. Thus, the duration of the proposed construction activities would constitute approximately two percent of the total exposure period.

Because the use of mobilized equipment would be temporary and there are no sensitive receptors located immediately adjacent to proposed areas of construction, diesel PM from construction activities would not be anticipated to result in the exposure of sensitive receptors to levels that exceed the SJVAPCD standards. In addition, the long-term operation of the project would not result in any non-permitted sources of toxic air emissions. As a result, exposure of sensitive receptors to substantial toxic air emissions is considered less than significant.

### c) Cumulative Impacts

Implementation of the Gateway Parcel Precise Plan, including operation of the proposed amphimeadow, would result in long-term air pollutant emissions primarily associated with the increased operation of motor vehicles. Long-term air emissions have the potential to affect the cumulative air quality of the San Joaquin Valley Air Basin. The urban emission model, URBEMIS 2002 Version 8.7.0, was used to predict the quantities of mobile source regional emissions attributable to the proposed project. URBEMIS 2002 default speeds, trip lengths, percent of those trips that started cold, the percentage of the trips that were made from home to work, from home to shopping, and from home to other were used assuming a vehicle fleet mix of light- and medium-duty automobiles.

As stated below under Transportation/Traffic, trip generation numbers obtained from the traffic analysis prepared for the TRRP Master Plan Master EIR were also used for the air quality analysis. The trip generation numbers used for the Master EIR impact analysis included trips associated with the regional sports complex, which is not included in the Gateway Parcel Precise Plan, as well as the amphimeadow. Therefore, the trip generation numbers presented below are conservative for the Gateway Parcel Precise Plan.

Based on the traffic analysis prepared for this project, the proposed land uses would generate an average of approximately 2,285 daily trips during the weekdays (i.e., Monday through Friday). Daily use would increase slightly on the weekend to a maximum of approximately 2,825 trips on Saturdays and approximately 3,220 trips on Sundays. In general, outdoor park-related activities are typically considered seasonal, with slight decreases in trip generation typically occurring during the colder winter months.

In addition, it should be noted that the Gateway Parcel Precise Plan includes development of approximately six miles of off-street bicycle-accessible paths. These multi-modal paths, together with paths proposed in other locations as part of the overall TRRP Master Plan, would further supplement existing bicycle corridors within the Modesto Urbanized Area; would improve access between residential, commercial, and agricultural uses; and would link many of the existing and planned trail systems located in Stanislaus County. Consistent with the trip reduction strategies of the SJVAPCD's AQAP and the goals and objectives of the SCAAG's Congestion Management Program, construction of the proposed multi-modal path would provide safe, fast, and convenient options to the use of personal automobiles for commutes occurring within the Modesto Urbanized Area. Anticipated reductions in trip generation would result in reduction in mobile source vehicle emissions that could offset, to some degree, the predicted increases in emissions associated with development of the proposed amphimeadow.

Long-term (operational) regional air pollutant emissions of ROG, NO<sub>x</sub>, and PM<sub>10</sub> generated by stationary, area, and mobile sources, were assessed using the URBEMIS 2002 Version 8.7.0 computer program. Table 2 summarizes yearly operational emissions from area sources and motor vehicle trips generated by the project.

To be conservative, the trip generation rates used in the model did not include any reductions due to seasonal variations in use patterns for the proposed amphimeadow, or reductions anticipated due to an increased use of alternative means of transportation, as would be anticipated with the implementation of the proposed project. Rather, annual emissions were modeled using the maximum daily trip generation obtained from the traffic report, which were applied over a 365-day period. Based on the modeling conducted, mobile sources would generate "worst-case" emissions of approximately 4 tons per year (tons/year) of ROG, 5 tons/year of NO<sub>x</sub>, and less than 5 tons/year of PM<sub>10</sub>. Additional emissions associated with the occasional use of landscape maintenance equipment and increased electrical demand would be minor and would not contribute substantially to projected increases in annual regional emissions. Predicted "worst-case" emissions would not exceed the SJVAPCD significance thresholds of 10 tons/year of ROG or NO<sub>x</sub>. As a result, the project's contributions to cumulative regional air quality impacts are considered less-than-significant.

Table 2 Summary of Predicted Yearly Operational Emissions of ROG, NO <sub>x</sub> and PM <sub>10</sub>			
Emissions Source	ROG (tons/year)	NO <sub>x</sub> (tons/year)	PM <sub>10</sub> (tons/year)
Operational Emissions			
Area source	0.02	0	0
Mobile vehicle source <sup>1</sup>	3.80	5.29	5.16
<b>Total Operational Emissions</b>	<b>3.82</b>	<b>5.29</b>	<b>5.16</b>
SJVAPCD Significance Thresholds	10	10	-
<sup>1</sup> Mobile-source emissions were estimated based on default model settings and trip generation rates obtained from the traffic analysis prepared for this project under project implementation conditions for the year 2007.  Detailed input parameters and modeling results are available at the City of Modesto Parks, Recreation and Neighborhoods Department.  Source: EDAW 2005; Guerra, Hector. SJVAPCD Senior Air Quality Planner. Phone conversation with Heather Phillips of EDAW. July 26, 2005			

No new significant air quality impact would result from the Gateway Parcel Precise Plan that was not previously identified in the Master EIR.

e) **Objectionable Odors**

The Gateway Parcel Precise Plan would not result in the operation of a new source of odor emissions that would affect a substantial number of people.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>IV. Biological Resources.</b> 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 the U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 the U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>

## Environmental Setting

The following information is based on the Existing Habitats – Plant Communities and Cover Types (EDAW 2004), Special Status Species Memorandum (EDAW 2004), Preliminary Delineation of Waters of the United States, Including Wetlands (EDAW 2004) which were prepared by EDAW, and Tuolumne River Regional Park Gateway Project Aquatic Habitat and Special-Status Fish Species Technical Memorandum (2004) prepared by Hagar Environmental Science.

### Terrestrial Vegetation

Excluding developed and disturbed sites such as Seventh Street, Ninth Street, SR 99, the Union Pacific Railroad, and disked former agricultural fields, the site supports native or naturalized vegetation or "plant communities". Native vegetation is most highly developed in relatively undisturbed riparian forests along the Tuolumne River and Dry Creek.

### Non-Native Grasslands

Non-native grasslands occur on the site where other plant communities were displaced by clearing or by other human induced disturbances, such as agricultural activities. Non-native grassland consists of annual Mediterranean grasses that grow 1.5 to 2.5 feet tall with nearly 100 percent cover. These communities are dominated by slender wild oat (*Avena barbata*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), Italian ryegrass (*Lolium perenne*), rattail fescue (*Vulpia myuros*) and hare barley (*Hordeum murinum ssp. leporinum*). Non-native forbs (broadleaf plants) include dwarf nettle (*Urtica dioica*), redstem filaree (*Erodium cicutarium*), spring vetch (*Vicia sativa*), black mustard (*Brassica nigra*), mallow or cheeseweed (*Malva spp.*), milk thistle (*Silybum marianum*), wild radish (*Raphanus sativa*), and curly dock (*Rumex crispus*). This vegetation type is often utilized by raptors as foraging habitat. Common small mammal species present in this habitat include squirrels, voles, and mice.

### Great Valley Willow Scrub Community

This is a "pioneer" plant community dominated by shrubby "second growth" willows that occurs primarily in areas on the parcel that were previously cleared for agriculture. An exception to that statement is a narrow band of narrowleaf willow (*Salix exigua*) that has re-occupied the low water edge of the Tuolumne River at this site since removed by the last scouring flows. Most of the Gateway parcel (designated on the map as "willow scrub with walnut") was planted before 1937 with English walnut (*Juglans regia*) grafted onto Northern California black walnut (*J. californica* var. *hindsii*) rootstock for disease resistance. Associated with willow scrub communities on the site are scattered, small individual trees of Fremont cottonwood (*Populus fremontii*), California box-elder (*Acer negundo* ssp. *californica*), shining willow (*Salix lucida*) and Gooding's black willow (*Salix gooddingii*). Shrubs in openings of the canopy include non-native Himalaya berry (*Rubus procerus*), native blue elderberry (*Sambucus mexicana*), and wild rose (*Rosa californica*).

### Great Valley Valley Oak Riparian Community

This community occurs in the relatively undisturbed portions of the riparian corridor above the level of high energy scouring flows. The valley oak riparian community on the site is dominated by large valley oak (*Quercus lobata*) trees that are hundreds of years old and over 50 feet tall, with diameters at breast height (dbh) of 20 inches or more (Aspen Survey 2004). This community type is highly developed at the confluence of Dry Creek and the Tuolumne River, where a massive oak occurs that is almost 61 feet tall with a dbh of 62 inches. Other common plant species associated with this community type include Fremont cottonwood trees, scattered box-elders and an occasional canyon live oak (*Quercus chrysolepis*). Shrubs, such as blue elderberry, occur in openings and were discussed in the previous section. A non-native vine, English ivy (*Hedera helix*) creeps up the trunks of the trees, as does the native poison oak (*Toxicodendron diversilobum*). Barbara sedge (*Carex barbae*) is closely associated with the oak understory on the site. This habitat is

valuable for a variety of birds such as oak titmouse, orange-crowned warblers, and scrub jays. A variety of raptors including Swainson's hawk, sharp-shinned hawk, and Cooper's hawk are often found in valley oak habitats. The Great Valley oak riparian community is considered a sensitive habitat by the California Department of Fish and Game (CDFG) (CNDDDB 2004).

## **Aquatic Habitat**

### **Dry Creek**

The western bank of Dry Creek is the eastern border of the project site. Dry Creek is a low gradient, sand-bedded stream in the project area. The portion of the channel within the project site is incised and has steep banks. The average width of the ordinary high water mark (OHWM) of Dry Creek in the project site is approximately 109 feet. Dry Creek is made up of return flows from Oakdale Irrigation District and surface water runoff. In winter it is a rain-fed system with flow up to several thousand cubic feet per second (cfs). Historically, Dry Creek ceased flowing after the rainy season but under present conditions, low flow is maintained through the summer from irrigation return flows. Because of year round flow, the present fish assemblage is probably different than it was historically (T. Ford, personal communication, Turlock Irrigation District (TID), May, 2004). Taken together, modifications to the aquatic habitat of Dry Creek, generally favor introduced species native to Eastern North America.

### **Tuolumne River**

The north bank of the Tuolumne River is the southern boundary of the project site. The project reach is within the sand-bedded reach of the lower Tuolumne River. The sand-bedded zone extends from river mile 0.0 to approximately river mile 24. This is contrasted with a gravel-bedded zone extending upstream from river mile 24 to river mile 52.2 at La Grange Dam. The sand-bedded zone is characterized by a reduced channel slope and a widening valley where transport of larger gravel and cobble-sized particles is diminished. This reach also has greater channel sinuosity and a more meandering bar morphology (McBain and Trush 2000). These changes influence the composition of riparian vegetation and the utilization of aquatic habitat by various fish species. The project reach has also been influenced by agricultural land use (row crops and orchards) and by urban encroachment (McBain and Trush 2000). Dennett Dam forms a potential obstruction to fish migration within the project area.

### **Fish Species Occurrence**

A significant amount of information on fish species in the Lower Tuolumne River has been collected in recent years under a wide range of hydrologic and seasonal variation. Distribution and abundance of fish species in the Lower Tuolumne River is influenced by channel morphology and hydrologic conditions. Many species, including salmon, steelhead and lamprey spawn in gravel substrate and are therefore limited to the gravel-bedded zone for the reproductive phase of their life-cycle. Salmon and steelhead require relatively cool temperatures that are found only in the upper reaches closer to La Grange Dam during the summer months.

The Tuolumne River supports some 33 species of fish including 21 species that are introduced, many of them from eastern North America (Ford and Brown 2001). The introduced species primarily include members of the sunfish family (including black bass and bluegill), minnows, and catfish. Of the 12 native species known to occur in the Tuolumne River, one is listed under both State and Federal ESA's (Central Valley steelhead), and three others are species of concern or candidates for listing (Central Valley fall-run Chinook salmon, Pacific lamprey, river lamprey). Native species appear to be most frequent in areas upstream of the Gateway Parcel while introduced species dominate in downstream areas, including the project area.



## Jurisdictional Water of the U.S., Including Wetlands

Jurisdictional Waters of the U.S., including wetlands in the Gateway Parcel Precise Plan project area were identified during a field delineation survey of the Gateway Parcel conducted in April 2004. The delineation identified 19.14 acres of drainages that qualify as Other Waters of the U.S within the project site, of which 3.59 acres occur within Dry Creek and 15.55 acres occur within the Tuolumne River. No habitats that qualify as wetlands under Section 404 of the Clean Water Act were identified within the project site.

## Special-Status Species

### Special-Status Plants

Four special-status plants have been identified as having the potential to occur in the TRRP Master Plan project area (including the Gateway Parcel): Delta button-celery (*Eryngium racemosum*), California hibiscus (*Hibiscus lasiocarpus californiacus*), Merced monardella (*monardella leucocphala*) and Sanford's arrowhead (*Sagittaria sanfordii*) (USFWS 2000).

The Delta button-celery is a federal species of concern (FSC), is listed as Endangered by the State of California, and is a California Native Plant Society (CNPS) List 1B species (Plants Considered Rare, Threatened, or Endangered in California and Elsewhere). The California hibiscus is an FSC and a CNPS List 1B species (Plants Considered Rare, Threatened, or Endangered in California and Elsewhere). The Merced monardella is an FSC and a CNPS List 1A species (Plants Presumed Extinct in California). Sanford's arrowhead has no Federal or state status, but it is a CNPS List 2 species (Plants Considered Rare, Threatened, or Endangered in California but More Common Elsewhere).

No occurrences of these species have been recorded in the TRRP project area (CNPS 2004).

### Special-Status Wildlife

The USFWS and CNDDDB identify a number of special-status species as having the potential to occur in the project area (USFWS 2004, CNDDDB 2004). Many of these species were eliminated from further consideration within the Gateway Parcel project area because the project area is outside of the species current range or because no suitable habitat is present in the project area and are not discussed below.

#### Valley Elderberry Longhorn Beetle

Valley elderberry longhorn beetle is listed as federally threatened under the Endangered Species Act (ESA). This species is dependent on blue elderberry (*Sambucus mexicana*) shrubs for both food and reproduction. Blue elderberry shrubs with stem diameters greater than one inch in diameter at ground level are considered habitat for this species and are protected as such under the Federal Endangered Species Act. The CNDDDB includes three occurrences of valley elderberry longhorn beetle within a five-mile radius of the Gateway Parcel area, and 14 clusters of elderberry plants greater than one inch diameter at ground level were observed on the project site.

#### Western Pond Turtle

The western pond turtle (*Emys* (= *Clemmys*) *marmorata*) is an FSC and California Species of Special Concern (CSC). Western pond turtles are found in slow-moving aquatic habitats, such as ponds, marshes, streams, and irrigation ditches. They use submerged or emergent vegetation for foraging and basking while partially submerged, and require logs or other objects for basking out of the water. Western pond turtles nest in upland habitats adjacent to aquatic sites that provide suitable thermal and hydric environment for incubation of eggs. Although no western pond turtle were observed on site, this species is expected to occur in the project area, especially on the banks of the Tuolumne River and Dry Creek.

#### Osprey

Osprey (*Pandion haliaetus*) is a CSC and is found primarily nesting in large snags near lakes, rivers, and streams and feeds primarily on fish. Although this species has a potential to occur on site and foraging within the Tuolumne River, none were observed and no potential osprey nests were identified.

#### White-tailed Kite

White-tailed kite (*Elanus caeruleus*) is a CSC and fully protected species, and forages primarily in and around grasslands, wetlands, and marshes close to isolated trees that are used for nesting and perching. Although no white-tailed kite were observed on the project site, this species has a high potential to be found foraging in the plowed agricultural field and non-native grassland and could potentially nest in the adjacent trees.

#### Cooper's Hawk

Cooper's hawk (*Accipiter cooperii*) is a CSC and nests primarily in deciduous trees, including those found in riparian areas. The primary food item is small birds, but can also include small mammals, amphibians, and reptiles. Although this species was not observed on site, this species could potentially be found nesting in both the adjacent and on-site riparian habitat and foraging within the willow scrub habitat.

#### Northern Harrier

The northern harrier (*Circus cyaneus*) is a CSC. Northern harriers nest on the ground in dense, low-lying vegetation, including emergent wetlands, grasslands, and field crops. This species is potentially present within the project area throughout the year, but is probably most common in the fall and winter, foraging over open grassland. Therefore, this species has a moderate potential to nest on the project site.

#### Swainson's Hawk

Swainson's hawk (*Buteo swainsoni*) is state-listed as threatened. In the Central Valley of California, Swainson's hawks are often found nesting in riparian habitats with adjacent suitable foraging habitat. There is one CNDDB occurrence within a 5-mile radius of the Gateway Parcel, and at the southwest end of the project site two old raptor nests were observed that may potentially be Swainson's hawk nests. Therefore, this species has a high potential to occur on the project site.

#### Merlin

Merlin (*Falco columbarius*) is a CSC with respect to wintering habitat. This falcon breeds in Canada in open woods or wooded prairies and winters in small numbers in a variety of California habitats, including grasslands, savannahs, and wetlands. Merlin forages along the margins of wooded habitat, including riparian strips, and feed mostly on small birds. This species is expected to forage in limited numbers on the project site during the winter.

#### Western Burrowing Owl

Western burrowing owl (*Speotyto cunicularia hypugea*) is a CSC. They prefer dry grasslands and other dry, open habitats. They typically nest and roost in burrow systems created by medium-sized mammals (e.g., ground squirrels) or in artificial sites (e.g., drain pipes and culverts). No burrowing owls were observed on site but suitable habitat is present. Therefore, this species has a moderate potential to occur on the project site.

### Loggerhead Shrike

Loggerhead shrike (*Lanius ludovicianus*) is a CSC. Loggerhead shrikes are resident and winter visitors in lowlands and foothills throughout California. Preferred habitat includes open areas such as desert, grasslands, and savannah. Loggerhead shrikes nest in thickly foliated trees or tall shrubs, and forage in open habitats which contain trees, fence posts, utility poles, and other perches, and are usually solitary birds. They feed on insects, reptiles, and small mammals, which they frequently impale on thorns and barbed wire after capturing. Suitable habitat for Loggerhead Shrike occurs in the grassland habitats of the project site. This species was not observed on the Gateway Parcel but several birds were observed foraging in the TRRP Master Plan Area. Therefore, loggerhead shrike is expected to occur during the winter, foraging on the project site and has a moderate potential to nest on, or adjacent to, the project site.

### California Horned Lark

California horned lark (*Eremophila alpestris actia*) is a CSC and a common to abundant resident in open, level or rolling short-grass prairies, plains, and meadows. Grasslands and open habitat with low, sparse vegetation and surface irregularities, such as rocks, litter, and clods of soil, which provide cover, are preferred habitat for the California Horned Lark. Suitable foraging and nesting habitat for this species occurs in the grasslands on the project site. Therefore, this species has a moderate potential to be found nesting on the Gateway Parcel.

### Yellow Warbler

The yellow warbler (*Dendroica petechia brewsteri*) is a CSC and breeds in riparian woodlands. Historically, yellow warblers were locally common summer residents in suitable habitat throughout most of California. However, yellow warbler populations have declined dramatically due to loss of riparian habitat to agriculture and urbanization and nest parasitism by the brown-headed cowbird (*Molothrus ater*). Yellow warblers are likely to migrate through the project area but have a low potential to be found nesting on the project site.

### California Horned Lizard, San Joaquin Pocket Mouse, Merced Kangaroo Rat

California horned lizard (*Phrynosoma coronatum frontale*), San Joaquin pocket mouse (*Perognathus inornatus inornatus*), and Merced kangaroo rat (*Dipodomys heermanni dixonii*) are FSC. California horned lizard is also a CSC. These three species inhabit grasslands and weedy habitats on fine textured soils. None of these species have been recorded in the TRRP Master Plan area. Grasslands in the Gateway Area may represent suitable habitat for these three species. However, due to the amount of human disturbance (including plowing and disking) and the limited amount of relatively undisturbed grassland present on the project site, these species have a low potential to occur on site.

### Central Valley Fall-Run Chinook Salmon

Fall-run chinook salmon in the Tuolumne River is a candidate for federal listing. NMFS completed a status review of west coast chinook salmon populations and determined that listing of the Central Valley fall and late-fall run as a threatened species was not warranted but that it would be considered a candidate species (NMFS 1999). The Tuolumne River supports a naturally reproducing population of fall-run chinook salmon, which is the largest population of fall-run chinook salmon in the San Joaquin Basin (Stillwater Sciences 2001). Adult chinook salmon migrate into the Tuolumne River to spawn between September and December with peak arrival in November. Almost all spawning occurs upstream of Hickman Bridge (Waterford). Fry emerge from the spawning gravels in the spring, typically from January through March. Fry may leave the river immediately or remain in the river to rear. Those that rear in the river emigrate in late spring as juveniles or smolts (Stillwater Sciences 2001). Fry, juvenile, or smolt salmon may be present in the project area as migrants or while rearing between January and May. Ford and Brown (2001) reported that juvenile salmon

were abundant in the lower river section below Dry Creek only in high flow years during the period from 1986 to 1997.

#### Central Valley Steelhead

Central Valley steelhead (anadromous *Oncorhynchus mykiss*) are federally listed as a threatened species and the Tuolumne River is within the critical habitat designated for this ESU (NMFS 2000). *O. mykiss* are found in the Lower Tuolumne River although their status is uncertain. The resident (non-migratory) form of *O. mykiss*, rainbow trout, may be present as well as the protected anadromous form. Rainbow trout may enter the Lower Tuolumne River from Don Pedro Reservoir when the reservoir spills, or may be introduced from other reservoirs and hatcheries in the area. Juvenile steelhead and rainbow trout can not be distinguished by external observation and genetic tests or other analytical procedures have not been reported for *O. mykiss* from the Tuolumne River.

In records compiled from several sources by the Modesto and Turlock Irrigation Districts (MID-TID 2003), all reports of *O. mykiss* are from upstream of Waterford. This is consistent with habitat changes downstream including increased summer water temperature and change in substrate from the gravel size class to sand dominated. While it is possible that steelhead would use the Tuolumne River in the project reach for migration, it is not expected that they would use it for rearing. Adult steelhead migrate upstream to spawn from December through April and smolts migrate downstream in March through May.

#### Pacific Lamprey

In the August 11, 2004 update, the USFWS designated the Pacific lamprey (*Lampetra tridentata*) as a Species of Concern (USFWS 2004). As of 2003, it is no longer listed as a California Species of Special Concern (CDFG 2003). The Pacific lamprey has been reduced from historic abundance and it is eliminated from some areas where formerly found. In the samples evaluated by Ford and Brown (2001), all of the lamprey caught were identified as Pacific lamprey, but some individuals may have been river lamprey as examinations were not detailed. Both the ammocoete form and the transformed seaward migrants have been taken near the project site. Pacific lamprey were observed more frequently approximately 25 to 30 miles and further upstream of the project site (where more suitable spawning habitat exists). However, data for lamprey are generally relatively incomplete since the immature life stage (ammocoetes) live within the substrate and are not easily captured or quantified using standard sampling methods such as electrofishing, seining, or snorkel surveys. Lamprey have received little scientific attention and there is uncertainty regarding their status and biology.

Pacific lamprey are anadromous with a free-swimming parasitic or predatory marine adult stage, where they may feed on ocean fish such as salmon and flatfish, and a freshwater immature stage that is a benthic filter feeder, feeding on benthic detritus. Spawning takes place in higher gradient, gravel/cobble bed, cool water streams primarily between early March and late June (Moyle 2002). Ammocoetes burrow in sand or silt substrates in quieter channel margin, pool, or backwater habitats. The ammocoete stage is thought to last 5-7 years (Moyle 2002). Adults in freshwater do not feed. Ammocoetes feed on organic detritus and algae which they gather from the surface of the substrate.

Pacific lamprey still appear to be present in most of their native range though anecdotal evidence indicates that abundance is reduced in many areas and some large runs have nearly disappeared. They are usually absent from highly altered or polluted streams and have been eliminated from many urbanized streams in the southern part of their range. Both Dry Creek and the Tuolumne River provide aquatic habitat conditions that are conducive to use by Pacific Lamprey, particularly the ammocoete stage, and the species should be considered as potentially occurring in the project area.

## River Lamprey

The River lamprey (*Lampetra ayresi*) is a Federal Species of Concern (USFWS 2004) and is on the California Watch List (CDFG 2003). The Watch List includes species that are found in much of their native range but were found in greater numbers historically or may have been more widespread (CDFG 2003). River lamprey have received little scientific attention and there is uncertainty regarding their status and biology. The biology of river lampreys has not been studied in California (Moyle 2002). As with Pacific lamprey, data for lamprey are relatively incomplete since the immature life stage (ammocoetes) live within the substrate and are not easily captured or quantified. It is difficult to distinguish the larval and early adult life stages of river lampreys from Pacific lampreys because the morphologies of these life stages are very similar.

River lampreys are found in large Pacific coast drainages from north of Juneau, Alaska, south to San Francisco Bay. In California most records have been for the lower Sacramento-San Joaquin River system. They may have been present in the Tuolumne River, as mentioned previously under the discussion of Pacific lamprey (Ford and Brown 2001), however there have not been subsequent studies to confirm their presence.

Although there are no widespread efforts to census populations, river lamprey is thought to have become uncommon in California due to loss and degradation of habitat, particularly spawning and rearing habitat in the lower reaches of larger rivers. However, this species has not been thoroughly studied and further investigation is needed to adequately monitor and manage its populations (CDFG 2003; Moyle 2002). Both Dry Creek and the Tuolumne River provide aquatic habitat conditions that are conducive to use by River Lamprey, particularly the ammocoete stage, and the species should be considered as potentially occurring in the project area.

### Regulatory Policies Applying to the Project Area

Regulations that protect biological resources that may be applicable to the proposed Gateway restoration project include the following:

- Federal Endangered Species Act (ESA) of 1973
- Federal Migratory Bird Treaty Act
- Clean Water Act
- California Endangered Species Act (CESA) of 1984
- Section 3503 and 3503.5 of the California Fish and Game Code
- Fully Protected Species-California Fish and Game Code sections 3511, 4700, 5050, and 5515
- Section 1600 of the California Fish and Game Code

### Discussion

#### a,d) Special Status Species

##### Special Status Fish

Implementation of the Gateway Parcel Precise Plan could result in potential adverse and beneficial impacts to special-status fish (Chinook salmon, steelhead, river and Pacific lamprey) and their habitat.

In the long term, the Precise Plan would remove invasive exotic vegetation from riparian areas, reestablish native riparian vegetation species composition, reconnect portions of the floodplain to the river (by terrace contouring), and the reestablish natural riparian vegetation and processes on the excavated terraces. Restoration of the natural riverbank configuration is expected to result in long-term beneficial impacts to fish

and fish habitat both in the Precise Plan area and downstream. Additionally, the proposed removal of Dennett Dam would improve fish passage during low-flow conditions in the Tuolumne River.

Flow regulation and human alteration of the Tuolumne River and Dry Creek channel and floodplain has resulted in an incised channel and oversteepened banks that are either artificially stabilized or actively eroding. Beneficial impacts that are expected to result from the proposed bank recontouring at several locations on the Tuolumne River and Dry Creek include:

- substantial reductions in localized bank erosion and elimination of the need for artificial stabilization;
- increased floodway capacity;
- increased area available to salmonids and other fish for rearing and refuge during high flows;
- reestablishment of the connection between the river and its floodplain; and
- resumption of natural riparian vegetation recruitment and successional processes.

Although special-status fish will benefit from the project in the long-term, some short-term impacts are anticipated. Recontouring portions of the north bank of the Tuolumne River could result in physical disturbance to habitat for special-status fish and is considered a potentially significant impact. Temporarily elevated levels of total suspended solids (TSS) may also pose problems to fish of all life stages within the project area and downstream. Increased input of fine sediment during project construction could potentially result in direct impacts to Chinook salmon, steelhead, river and Pacific lamprey, as well as other fish, and could cause local and downstream impacts to habitat. Bank recontouring can be expected to cause short-term increases in bank erosion, which would likely result in temporarily elevated levels of sediment delivery to the Tuolumne River.

A short-term loss of riparian vegetation is expected during construction of bridges, trails, river overlooks, and other facilities near the Tuolumne River and Dry Creek, and may lead to temporary adverse impacts to fish and aquatic resources in the Precise Plan project area. Exposed bare soil on restored banks could result in greater bank erosion and sediment delivery to the river. Disturbance caused by heavy machinery and construction crews, both in and out of the river, may potentially impact fish and wildlife in those areas. The potential impacts of construction-related sediment on fish and in-stream habitat would depend on the timing and duration of the construction, the presence of sensitive fish and their habitat on-site and downstream, and the river flow conditions during construction. Adverse impacts would gradually be reduced as the new riparian vegetation matures. Since there are only three access points to the river from the TRRP described in the Master Plan, disturbance following construction would be minimal. Replanting would follow the planting palette developed for the TRRP Master Plan, which includes guidelines for species composition and planting location. Project construction that could result in direct disturbance and increased sediment input would be temporary, and therefore no significant long-term impacts are expected.

While the Precise Plan would result in long-term beneficial impacts for special-status fish species, potential short-term impacts to Chinook salmon, steelhead, river and Pacific lamprey and their habitat are considered potentially significant. Mitigation Measure Bio-3 from the Master EIR would be implemented to address this impact.

**Master EIR Mitigation Measure Bio-3:** The following mitigation shall be implemented for any project covered by the TRRP Master Plan that has the potential to affect perennial aquatic habitat.

- a. The operation of heavy equipment in the active river channel shall not occur. Temporary sediment settling basins and structures such as sediment fencing or straw bales shall be used to prevent sediment-laden runoff from entering the river channel. All runoff controls shall be monitored and maintained to ensure storm events, vandalism, or other activities do not diminish the effectiveness of these controls. Monitoring should occur after major storm events and on a

scheduled basis to address potential vandalism of the control measures. Specific control measures and the appropriate maintenance program will be developed during project design.

- b. River-adjacent construction activities shall occur during summer months when flows are low and rain is unlikely. Construction of bridges and near-river facilities shall be conducted during the summer when flows are low and rain is unlikely or as otherwise appropriate to avoid impacts during fish migrations and sensitive life stages. Construction shall not occur near the river from September through December, as this is the period when most ESA species would be in the river in appreciable numbers.
- c. The project proponent shall consult with NOAA Fisheries and U.S. Fish and Wildlife Service under Section 7 of ESA to determine a future course of action, including whether incidental take authorization is needed. Through consultation and negotiations with the federal agencies, appropriate mitigation and avoidance measures will be determined and implemented.

Implementation of the above mitigation measures in consultation with NMFS and U.S. Fish and Wildlife Service would ensure that impacts to sensitive fish species are less than significant.

### Valley Elderberry Longhorn Beetle

The Gateway Parcel Precise Plan Removal of blue elderberry shrubs providing critical habitat for the federally-listed endangered valley elderberry longhorn beetle from grading of the floodplain terraces would be considered a significant impact. Mitigation Measure Bio-4 from the Master EIR would be implemented to address this impact.

**Master EIR Mitigation Measure Bio-4:** The following measures shall be implemented to ensure that impacts to the valley elderberry longhorn beetle are less-than-significant:

- a. Prior to any construction activity or grading for any Master Plan project, a qualified biologist shall conduct a survey to determine the number and location of elderberry shrubs on the project site.
- b. If no elderberry shrubs are found on the project site or if all elderberry shrubs will be avoided by at least 100 feet, impacts to the valley elderberry longhorn beetle will be less-than-significant and no further mitigation is necessary.
- c. If elderberry shrubs are found within the project area, the project proponent will consult with U.S. Fish and Wildlife Service under Section 7 of ESA to determine a future course of action, including whether incidental take authorization is needed. Through consultation and negotiations with U.S. Fish and Wildlife Service, appropriate mitigation and avoidance measures will be determined and implemented.

If avoidance of elderberry plants is not possible, mitigation measures developed with U.S. Fish and Wildlife Service under Section 7 of ESA would likely include transplanting of affected shrubs and planting of additional new shrubs. These actions are described in the Ecological Restoration Plan (EDAW 2004). Transplantation is possible depending on location of plants (riparian versus non-riparian habitat), presence/absence of exit holes, adjacent vegetation, and size of plants. Mitigation varies depending on site conditions and may include additional plantings up to a 6:1 ratio based on the number of stems and their diameters.

Implementation of the above mitigation measures in consultation with U.S. Fish and Wildlife Service would ensure that impacts to the valley elderberry longhorn beetle would be reduced to less-than-significant levels.



## Nesting Raptors

Raptor nests could be adversely affected by the removal of trees and by nearby construction activities occurring during the breeding season (February 1 to August 31). Raptor nests are protected by the California Fish and Game Code. This is considered a potentially significant impact. Mitigation Measure Bio-5 from the Master EIR would be implemented to address this impact.

**Master EIR Mitigation Measure Bio-5:** Implementation of the following mitigation measures would ensure that impacts to nesting raptors are less-than-significant:

- a. If construction is proposed during the raptor nesting season (1 February to August 31), a focused survey for raptor nests shall be conducted by a qualified biologist to identify active nests within 1/4 mile of the project area. The survey shall be conducted no less than 14 days and no more than 30 days prior to the beginning of construction and shall be within the nesting season.
- b. If nesting raptors are found during the focused survey, no construction shall occur within 500 feet of an active nest until the young have fledged (as determined by a qualified biologist), without prior approval by the California Department of Fish and Game. Construction within 500 feet may be permitted if a nest monitor is present to ensure that disturbance to the nesting raptors is minimized to the maximum extent practicable.

Implementation of the above mitigation measures in consultation with the CDFG would ensure that impacts to the nesting raptors would be reduced to less-than-significant levels.

### b) **Riparian Habitat**

The riparian habitat on the Gateway Parcel currently supports high wildlife diversity and functions as an important wildlife corridor. Grading and earthmoving activities to create the riparian terraces would remove up to approximately 11 acres of existing riparian vegetation within the Great Valley valley oak riparian community. This community is considered a sensitive habitat by the CDFG (CNDDDB 2004). Riparian vegetation associated with rivers, stream, or lakes in California is also subject to regulation by CDFG, pursuant to Sections 1600 through 1603 of the California Fish and Game Code. Riparian habitat within the Ordinary High Water Mark of jurisdictional Waters of the U.S. is under regulatory authority of USACE. The Stanislaus County General Plan (1994) and the City of Modesto General Plan EIR (1995) address the conservation of riparian habitat.

One of the primary goals of the Gateway Parcel Precise Plan is to restore a continuous riparian corridor along the Tuolumne River. The Precise Plan would create floodplain terraces to provide surfaces that inundate more frequently, restore hydrologic connectivity, and create different hydrologic niches that meet many riparian plant species' initiation and establishment requirements. Approximately 22 acres of riparian vegetation would be replanted in the Gateway Parcel as part of the Ecological Restoration Plan. Mature valley oaks would not be removed and would be protected from soil compaction and damage during the projects construction phase. Areas that require summer irrigation, such as lawn, would not be planted in the vicinity of oaks to protect them from fungus infection.

Impacts to riparian habitat would be temporary during construction activities. Implementation of the Precise Plan would result in a net increase in riparian habitat overtime, once riparian vegetation in replanted areas is re-established. However, the short-term loss of existing riparian habitat is considered a significant impact because this habitat has been identified as a sensitive natural plant community by regulatory resource agencies.





**Master EIR Mitigation Measure Bio-1:** To minimize disturbance to riparian habitat outside of the proposed area of disturbance, the following measures shall be implemented:

- a. For any TRRP Master Plan project, prior to any grading or tree removal, riparian habitat outside of the proposed work areas will be protected by installing orange barrier fencing around habitat to be preserved and restricting vehicular or mechanical use of equipment in these areas. The project proponent shall retain a qualified biologist to serve as a compliance monitor and to ensure that all mitigation measures pertaining to riparian habitat protection are properly implemented.
- b. Prior to project implementation, a Section 404 permit shall be obtained from the United States Army Corps of Engineers (USACE) and a Section 1600 Streambed Alteration Agreement shall be obtained from the California Department of Fish and Game (CDFG). Additional mitigation for impacts to riparian areas will be developed through consultation with USACE and CDFG. A detailed riparian restoration plan shall be submitted to USACE as part of the 404 permit application. The plan must be approved by USACE prior to project implementation. Mitigation monitoring shall be conducted annually by a qualified biologist for 5 years or until the success criteria are met. Annual monitoring reports shall be submitted to USACE and CDFG.

Implementation of the above mitigation measures in consultation with USACE and CDFG would ensure that impacts to riparian habitat are less-than-significant.

c) **Wetlands**

Adverse impacts to jurisdictional waters of the U.S. protected under Section 404 of the Clean Water Act could occur on the Gateway Parcel due to construction activities related to implementation of the Master Plan. The preliminary wetlands delineation prepared by EDAW in April 2004 identified 19.14 acres of drainages that qualify as Other Waters of the U.S. within the project site, of which 3.59 acres occur within Dry Creek and 15.55 acres occur within the Tuolumne River. Grading and earthmoving activities to create the floodplain terraces below the ordinary high water mark of Dry Creek and the Tuolumne River would potentially constitute "a discharge of fill" and require a permit from the U.S. Army Corps of Engineers. This is considered a potentially significant impact. Mitigation Measure Bio-2 from the Master EIR will be implemented to address this impact.

**Master EIR Mitigation Measure Bio-2:** The following mitigation measures shall be implemented to ensure impacts to Waters of the U.S. are less-than-significant.

- a. For any TRRP Master project, prior to grading or tree removal, a qualified biologist shall make a determination whether potential jurisdictional Waters of the U.S., including wetlands are present in the project area.
- b. If potential jurisdictional Waters of the U.S., including wetlands, are present, a determination shall be made through the formal Section 404 wetland delineation process if any jurisdictional areas would be filled or otherwise disturbed as a result of the project. Authorization of a Section 404 and Section 10 permit shall be secured from USACE and a Section 1600 agreement shall be secured from CDFG, as appropriate.
- c. As part of the permitting process, mitigation for impacts to jurisdictional Waters of the U.S., will be identified and implemented. Waters of the U.S. will be replaced or rehabilitated on a "no-net-loss" basis in accordance with USACE regulations. Habitat restoration, rehabilitation, and/or replacement shall be at a location and by methods agreeable to USACE.



- d. For all projects with the potential to affect jurisdictional Waters of the U.S., all grading plans will include adequate setback for waters to be preserved. Measures to minimize erosion and runoff into seasonal and perennial Waters of the U.S. will be prepared for all projects covered by the Master Plan. Appropriate runoff controls such as berms, storm gates, detention basins, overflow collection areas, filtration systems, and sediment traps shall be implemented to control siltation and the potential discharge of pollutants into preserved drainages. All runoff controls shall be monitored and maintained to ensure storm events, vandalism, or other activities do not diminish the effectiveness of these controls. Monitoring should occur after major storm events and on a scheduled basis to address potential vandalism of the control measures. Specific control measures and the appropriate maintenance program will be developed during project design.

Implementation of this mitigation measure would reduce this impact to a less-than-significant level.

e,f) **Plans, Policies and Ordinances**

The Gateway Parcel Precise Plan is consistent with the TRRP Master Plan EIR and would restore riparian vegetation along the Tuolumne River and Dry Creek. Based on consultation with the City Arborist, eleven trees were identified for removal from the Gateway Parcel as part of the Precise Plan. The affected trees include ten non-native trees and one native tree, a California box elder (*Acer negundo* ssp. *Californica*). The box elder tree is proposed for removal due to poor health. The Precise Plan would remove a relatively small number of trees from the site and would plant approximately 90 native trees as part of the ecological restoration plan. The mature oak woodland present on the site would not be affected. Therefore, this impact is considered less than significant.

	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 §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Environmental Setting

The Master EIR presents cultural resources setting information for the Gateway Parcel. Since publication of the TRRP Master Plan Master EIR, no changes or new information relating to cultural resources in the project area have occurred that would alter the findings in the Master EIR.

The following discussion is based on the cultural resources impact analysis presented in the TRRP Master Plan Master EIR.

## Discussion

### a-b) Effects on Known Cultural Resources

The Master EIR stated that none of the known cultural resources sites within the Gateway Parcel would be adversely affected by implementation of the proposed TRRP Master Plan. The Precise Plan project area is identical to the Gateway Parcel project area addressed in the Master EIR, except the Precise Plan project area does not include the W. H. Breshears, Inc. property. The area of construction and ground disturbance is the same as that evaluated in the Master EIR.

The Seventh Street Bridge (No. 38C-023) has been determined eligible for inclusion in the National Register of Historic Places (DOE Process 12/24/85). There would be an adverse effect if the bridge is removed or if its surrounding environment is significantly altered. Because the Gateway Parcel Precise Plan does not propose to remove or alter the Seventh Street bridge, no impact to this historic resource would occur.

Implementation of the Precise Plan would not affect the other potentially historic resources identified within the project area. The W.H. Breshears, Inc. property is no longer included in the Gateway Parcel Precise Plan

project area. Lion's Market, Ninth Street bridge and the Union Pacific Railroad and Tidewater Southern Railway bridges do not appear to be eligible for listing in the National Register of Historic Places. Therefore, the Gateway Parcel Precise Plan would not adversely affect known historic resources.

As stated above, no archaeological resources were identified within the Gateway Parcel during field surveys for the TRRP Master Plan, and no known or recorded prehistoric resources were found in the record search. Since no known archaeological resources exist within the project area, the project would not adversely affect known archaeological resources.

### **Effects on Unknown Cultural Resources**

Implementation of the Gateway Parcel Precise Plan would allow for subsurface grading and construction of new recreational facilities. Based upon the findings of the recent record and literature search, impacts to significant cultural resource sites within the project area are not anticipated. It is, however, possible that buried or otherwise unknown resources may be discovered during construction grading or vegetation removal. Prehistoric resources include chert or obsidian flakes, projectile points, mortars and pestles, and dark, friable midden soil containing bone and shell. Historic resources include glass, metal, ceramics, wood and similar debris. In addition to cultural resources, the potential for fossil materials to be found during project construction activities, remains uncertain until the ground surface has been broken and excavation of sub-surface soils takes place. Such resources, if uncovered during project development, would be subject to potential damage or destruction prior to the assessment of their importance and development of mitigation measures.

The Native American Heritage Commission in Sacramento was contacted by letter with a description of the proposed project and a request for a listing of local, interested Native American representatives, and information on traditional or sacred lands within the project area and vicinity.

The Master EIR identified cultural resources impacts within the Gateway Parcel, which is the project area for the Precise Plan. Project construction and ground disturbing activities could adversely affect unknown cultural resources. This is considered a potentially significant impact. The following mitigation measure, adopted by the City of Modesto in September 2001 for the Master EIR, will be implemented in the event that unknown cultural resources are encountered during implementation of the Gateway Parcel Precise Plan. This measure is updated in this Initial Study to reflect current practices.

**Master EIR Mitigation Measure CR-1:** If unrecorded cultural resources are encountered during project-related ground-disturbing activities, a qualified cultural resources specialist shall be contacted to assess the potential significance of the find.

If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains, etc.) is made during project-related construction activities, ground disturbances in the area of the find will be halted and a qualified professional archaeologist will be notified regarding the discovery. The archaeologist shall determine whether the resource is potentially significant as per the California Register of Historic Resources and develop appropriate mitigation.

Implementation of the above mitigation measure would reduce potentially significant impacts resulting from inadvertent damage or destruction of unknown cultural resources during construction to a less-than-significant level.

### **c) Unique Cultural Resources**

No known unique paleontological resources or unique geologic features would be affected by implementation of the Gateway Parcel Precise Plan.

d) **Disturbance of Human Remains**

Project grading and earthmoving activities could disturb previously undiscovered human remains. This is a potentially significant impact that is consistent with the findings of the Master EIR. Therefore, the following mitigation measure adopted by the City of Modesto in September 2001 applies to the Gateway Parcel Precise Plan. This mitigation measure is updated in this Initial Study to reflect current practices.

**Master EIR Mitigation Measure CR-2:** California law recognizes the need to protect interred human remains, particularly Native American burials and associated items of patrimony, from vandalism and inadvertent destruction. The procedures for the treatment of discovered human remains are contained in California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097.

In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities all such activities in the vicinity of the find shall be halted immediately and the lead agency or the lead agency's designated representative shall be notified. The lead agency shall immediately notify the county coroner and a qualified professional archaeologist. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). The responsibilities of the lead agency for acting upon notification of a discovery of Native American human remains are identified in detail in the California Public Resources Code Section 5097.9. The lead agency or its appointed representative and the professional archaeologist will consult with a Most Likely Descendent (MLD) determined by the Native American Heritage Commission regarding the removal or preservation and avoidance of the remains and determine if additional burials could be present in the vicinity.

Assuming an agreement can be reached between the MLD and the lead agency or its representative with the assistance of the archaeologist, these steps will result in minimizing or eliminating adverse impacts to the uncovered human remains.

Implementation of this mitigation measure would reduce this potential impact to a less-than-significant level.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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**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:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to California Geological Survey Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994, as updated), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Discussion

The following information is based on the October 15, 2004 Geotechnical Engineering Study – Gateway Parcel, Pedestrian Bridge Crossing, Tuolumne River Regional Park prepared by Condor Earth Technologies, Inc. as well as the TRRP Master Plan Master EIR.

### a,c) Seismic Impacts and Landslides

The Gateway Parcel is located within a moderately seismic region of the California Central Valley. The current California Building Code (2001) indicates that Gateway Parcel is within Seismic Zone 3, the lower risk zone for seismic activity. No known active or potentially active faults cross the project site, and the site is not located within a Fault-Rupture Hazard Zone as established by the Alquist-Priolo Earthquake Fault Zoning Act. Therefore, ground rupture from faulting is not considered a significant impact.

Liquefaction is a phenomenon whereby saturated, loose, cohesionless soils lose shear strength during an earthquake. The consequences of liquefaction of the soils underlying a site can include: bearing capacity failure of structure foundations; lateral spreading of the liquefied deposits and overlying soils; and localized settlement of the ground surface.

The potential for liquefaction of soil below the groundwater surface near the proposed pedestrian bridge site on the Gateway Parcel is high because the saturated materials are primarily loose to medium dense, non-cohesive soil. The risk posed by lateral spreading of the overlying non-saturated soils exposed in the Dry Creek creek face is less because of the uniformity, stiffness, and lack of distinctive horizontal layers in the soil.

While the risk of liquefaction in saturated subsurface soils during an earthquake is high, the risk to the proposed pedestrian bridge is low because the liquefiable soils are overlain by a minimum of 15 feet of dry, strong, cohesive non-liquefiable soils. In the event that the deeper sand did liquefy, the risk of catastrophic bearing failure of a shallow foundation in the upper soils is negligible; however, some settlement of the abutments is possible. The abutment settlement, in the event of liquefaction, is estimated to be less than a few inches. The low risk of damage due to liquefaction combined with the planned pedestrian use of the bridge does not warrant the use of deep foundations to eliminate risks associated with seismic activity. Construction of the pedestrian bridge will comply with the current California Building Code (2001).

The Gateway Parcel is within the Planned Urbanizing Area of the Urban Area General Plan and is addressed in that document. According to the City of Modesto Final Master EIR for the Urban Area General Plan (2003), no areas in which landslides and seismic activity threaten the public health and safety are located within the Planned Urbanizing Area. Therefore, this is considered a less-than-significant impact.

### b) Soil Erosion

Project construction would involve soil-disturbing activities such as vegetation removal, grading and excavation which may result in soil erosion and sediment discharge into surface waters, increased turbidity, and downstream sediment deposition. Temporary stockpiling of excavated soils would have the same effect if subject to erosion during rainfall.

### d) Expansive Soils

Expansive soils were not identified on the Gateway Parcel in the Initial Study for the TRRP Master Plan or the Master EIR. Therefore, they are assumed not to be present on the site.

e) **Septic Tanks**

The proposed restroom facilities at the Orchard Vista Point, Farmers' Market, and Valley Oak Meadow would use septic systems. Septic or composting tanks would be installed, operated and maintained according to City of Modesto and Regional Water Quality Control Board standards. Therefore, this is not considered a significant impact.



	Potentially Significant Impact	Less Than Incorporated 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 checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Environmental Setting

The Master EIR presents setting information for hazardous materials. Since publication of the TRRP Master Plan Master EIR, no changes or new information relating to hazards and hazardous materials in the project area have occurred that would alter the findings in the Master EIR. However, the Breshears, Inc. facility is not within the Precise Plan project area, and thus the Precise Plan does not proposed new facilities or uses on that potentially contaminated facility. The following discussion is based on the hazardous materials impact analysis presented in the TRRP Master Plan Master EIR.

## Discussion

### a-c) Use of Hazardous Materials

Implementation of the Gateway Parcel Precise Plan would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. No unusual use of hazardous materials is expected as a result of this project.

None of the facilities proposed by the Precise Plan would emit hazardous emissions or include the handling of hazardous or acutely hazardous materials. Pesticides and herbicides would be used according to EPA registration and label directions. Therefore, this is not considered a significant impact.

### d) Hazardous Materials Site

#### Former Ranch Complex

The Gateway Parcel is located on a former ranch complex which once contained an underground fuel storage tank, an aboveground diesel fuel storage tank, chemical use and storage areas, farm equipment and machinery repair and maintenance areas, and chemical mixing and/or loading areas. All of these items were identified in a Phase I Preliminary Environmental Assessment prepared by Erler & Kalinowski, Inc. in 1995, and were removed prior to City of Modesto acquisition of the property.

Development or grading of areas within the former ranch complex area of the Gateway Parcel could expose construction workers and/or the public to hazardous materials during and/or following redevelopment. This is considered a potentially significant impact.

**Master EIR Mitigation Measure HazMat-2:** A site investigation shall be conducted by a qualified professional (e.g., California registered environmental assessor) to identify any potential chemical impacts to soil in the former ranch complex. If the results of the investigation(s) indicated the presence of hazardous materials, site remediation may be required by the applicable State or local regulatory agencies.

Implementation of Mitigation Measure HazMat-2 from the Master EIR would reduce this impact to a less-than-significant level.

#### Past Agricultural Use

Potential health risks could result from placement of sensitive land uses, such as children's playgrounds, in former agricultural areas due to residual concentrations of agricultural chemicals in the soil. This is considered a potentially significant impact.

**Master EIR Mitigation Measure HazMat-3:** A Phase II assessment including soil sampling, shall be performed to assess agricultural chemicals in areas designated for children's playgrounds and other



sensitive land uses. If chemicals are present in soils at concentrations at or above applicable regulatory agency action levels for the intended land use, remediation requirements in accordance with State and federal regulations would be required.

Implementation of Mitigation Measure HazMat-3 from the Master EIR would reduce this impact to a less-than-significant level.

e.f) **Airports**

The Gateway Parcel is within the planning area boundary of the Modesto City-County Airport (Area 4) identified in the Stanislaus County Airport Land Use Commission Plan. The Stanislaus County Airport Land Use Commission reviewed the proposed Gateway Precise Plan and determined that the project appears to be compatible with their plan. According to Federal Aviation Regulation Part 150, the proposed land uses and structures would be compatible without restrictions. No structures will exceed the plan's height limits, and no lighting is proposed that would interfere with air traffic. Therefore, the project would be consistent with the regulations and policies of the Stanislaus County Airport Land Use Commission Plan, and would not cause air traffic hazards. The City will consult with the Stanislaus County Airport Land Use Commission during the design phase of the project to ensure that the project features are compatible with the plan.

g) **Emergency Response Plans**

Implementation of the Gateway Parcel Precise Plan would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. The Gateway Parcel is relatively isolated from surrounding uses due to the waterways along its eastern and southern boundaries and its low elevation.

h) **Wildland Fire Hazards**

The proposed Gateway Parcel Precise Plan calls for the enhancement and maintenance of riparian forests as wildlands along the length of the park. The trails proposed in the Precise Plan would provide greater access to wildland areas than currently exists. Increased public access to wildlands increases possible ignition sources and therefore also increases the likelihood for wildland fires, and the risk of loss, injury or death due to wildland fires both on-site and for the adjacent developed parcels. In general, wildlands along riparian corridors are considered to have a low to moderate risk of wildland fire, however the location of the park adjacent to urban land uses increases the possible damage that could occur if a wildfire starts. The increased risk of loss, injury or death involving wildland fires due to increased visitation to open space grasslands and riparian forests adjacent to urban areas is considered a potentially significant impact. This is consistent with the findings of the Master EIR.

The TRRP Master Plan recommends maintenance measures to reduce the fuel load in the meadow areas and thus reduce the risk of wildfire. The City of Modesto's requirement that buildings meet Uniform Fire Code standards reduces the risk of damage to adjacent buildings during a fire. Fire hazard warning signs and possible closure of trails through wildland areas of the park during high-risk fire hazard days (primarily during the summer and early fall months) could also be considered as a method to reduce the risk.

**Master EIR Mitigation Measure Fire-2:** The Modesto Parks, Recreation and Neighborhoods Department shall create and implement a vegetation management program targeted toward fire prevention and control. This program would expand upon the fuel reduction and management plan outlined in the TRRP Master Plan. The TRRP vegetation management program shall:

- Characterize existing and proposed vegetation fuels
- Identify potential ignition sources and locations

- Identify assets at risk in case of fire
- Identify specific maintenance measures to reduce fuel loads
- Identify buffer zones between residential structures on adjacent developed parcels and vegetation in the TRRP, and
- Make recommendations for fire resistant plantings

Implementation of Master EIR Mitigation Measure Fire-2 would reduce potential impacts associated with wildland fires to a less-than-significant level.



	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VIII. Hydrology and Water Quality.</b> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (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 which would result in substantial on- or off-site erosion or siltation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 which would result in on- or off-site flooding?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 flood flows?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Result in inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Discussion

The following information is based on the November 1, 2004 Ecological Restoration Plan prepared by EDAW, the April 1, 2005 Basis of Hydraulic Design Technical Memorandum prepared by HDR Engineering, and the TRRP Master Plan Master EIR.

### a.f) Water Quality

Project construction at the Gateway Parcel would involve soil-disturbing activities such as vegetation removal and grading which may result in soil erosion and sediment discharge into surface waters, increased turbidity, and downstream sediment deposition. Temporary stockpiling of excavated soils would have the same effect if subject to erosion during rainfall.

In addition, fuels, solvents and other chemicals used in construction vehicles could be accidentally spilled, dumped, or discarded and ultimately leak into the Tuolumne River or Dry Creek.

As stated above, the Precise Plan would require permits and approvals from several agencies, including the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, and the California Department of Fish and Game. Conditions outlined in the permits to protect water quality would be implemented to mitigate water quality impacts to a less-than-significant level. Additionally, a Stormwater Pollution Prevention Plan (SWPPP) will be prepared to identify best management practices that will be implemented during construction to protect water quality. The SWPPP will be prepared by the construction contractor prior to commencing construction.

The Gateway Parcel Precise Plan does not propose any uses or pollution sources that would further compromise the existing water quality, further violate water quality standards, or necessitate waste discharge requirements. Implementation of the Precise Plan would restore riparian habitat which could improve water quality on the lower Tuolumne River. Thus, after construction, the proposed Gateway Parcel Precise Plan would not result in significant impacts to water quality.

### b) Groundwater Supplies

The Department of Water Resources records from 1975 to 2003 indicate that the local groundwater surface elevation at the Gateway Parcel ranged from five to 57 feet above mean sea level. The site was flooded during the winter of 1997. The groundwater elevation typically ranges between 20 to 30 feet above mean sea level.

The Precise Plan would not result in operations or new facilities that would affect groundwater supplies.

**c-e) Drainage Patterns and Erosion**

Development of the Gateway Parcel, including roadways, parking areas, Farmers' Market platforms, and multi-use trails, would increase the amount of impervious surfaces on the site. This could generate a small increase in runoff. Drainage swales are proposed within the Farmers' Market area which would divert runoff to a vegetated swale that would filter the water before it drains into the Tuolumne River. The small increase in runoff that would be generated in the park is not expected to substantially affect the storm drainage system. Therefore, this is considered a less-than-significant impact.

The Precise Plan proposes to remove Dennett Dam from the Tuolumne River near the Ninth Street bridge. The dam currently impedes the migration route for local salmon and other fish, and blocks small boat passage. Removal of the dam would not substantially alter streamflow or water surface elevations in the Tuolumne River. HDR Engineering analyzed the effects of removing the dam. The dam is located in slow-moving segment of the river due to water "backing up" upstream of the bend in the river just west of SR 99. Water surface elevations at Dennett Dam are estimated to remain the same during the FEMA 100 year event and are estimated to drop by 0.3 feet at the 1.5 year flood event. These estimated changes in water surface elevations are expected to have no adverse impact on adjacent, upstream, or downstream property. In the long term, removal of the dam would improve fish passage. Therefore, this is considered a less-than-significant impact.

**Scour and Erosion at Existing Bridge Locations**

Changes in channel and overbank configuration may cause increased localized velocities, which could lead to scour and erosion occurring at existing bridge locations. This is considered a potentially significant impact. Implementation of Mitigation Measure Hydro-7 from the Master EIR would address this impact.

**Mitigation Measure Hydro-7:** Once detailed grading plans have been developed, scour analyses of bridge piers and abutments shall be performed in accordance with standard engineering practices to determine if changes in channel and overbank configuration are likely to cause scour and erosion at existing bridge locations. If necessary, armoring and erosion control measures shall be installed at existing bridge locations.

Implementation of this mitigation measure would reduce this impact to a less-than-significant level.

**g-i) Flood Hazards**

The Gateway Parcel lies within the 100-year floodplain and much of the park falls within the proposed 100-year floodway as designated by FEMA. It also falls within the floodway designated by the State Reclamation Board. No housing or other inhabitable structures would be constructed within the defined flood zones on the Gateway Parcel.

**Near-River Structures**

The Precise Plan would construct a river overlook, fishing pier, and fishing deck over the Tuolumne River. These structures could increase water surface elevations during flood events and cause localized bank erosion. Implementation of Mitigation Measure Hydro-3 from the Master EIR would address impacts associated with construction of near-river structures.

**Master EIR Mitigation Measure Hydro-3:** The following mitigation measures shall be implemented to avoid hazards related to construction in the floodway:

- Once detailed plans have been developed for the proposed structures, hydrologic and hydraulic analyses shall be performed in accordance with standard engineering practices to ensure that the proposed structures do not result in any increase in base flood water surface elevations.
- Scour analyses shall be performed once detailed plans have been developed for the proposed structures. If necessary, erosion control measures shall be incorporated in the final design.
- Structures shall be designed to allow adequate open space to pass flow and floating debris traveling downstream.
- Structures shall be designed to withstand the forces of floodwaters to minimize damages during flood events.

Implementation of these mitigation measures would reduce this impact to a less-than-significant level.

### Pedestrian Bridge

The proposed pedestrian bridge across Dry Creek near its confluence with the Tuolumne River is located within the designated floodway and could increase water surface elevations during flood events. Possible scour problems may also develop around piers and abutments if velocities increase due to bridge construction and placement. The bridge may also trap floating debris during flood events and could impact flood conveyance. This is considered a potentially significant impact. Implementation of Mitigation Measure Hydro-6 from the Master EIR would address this impact.

**Mitigation Measure Hydro-6:** The following mitigation measures shall be implemented to avoid potential flood hazards caused by the proposed pedestrian bridge:

- Construction plans shall be developed in accordance with standard hydrologic and hydraulic engineering practices to ensure that the proposed pedestrian bridge would not result in any increase in base flood water surface elevations during the base flood.
- The pedestrian bridge shall have adequate clearance above the base floodwater surface elevation so as not to impede flow or trap floating debris.
- The pedestrian bridge shall be designed to withstand the forces of floodwaters to minimize damages during flood events.
- Scour analyses of the bridge piers and abutments shall be performed once detailed plans have been developed for the proposed bridge. If necessary, erosion control measures shall be incorporated into the final design.

Implementation of these mitigation measures would reduce this impact to a less-than-significant level.

### Floodplain Terraces

The Gateway Parcel Precise Plan includes cutting back the right bank and developing terraced slopes and scour channels to restore riparian habitat. Each terrace would provide relatively flat planting areas to be inundated by flood waters of the Tuolumne River. Grading required to create the terraces could increase water surface elevations during a 100-year flood.





The Precise Plan, including the grading and planting plans, were analyzed by HDR Engineering to identify potential flooding impacts. The results of this analysis indicate that the project's impacts to the FEMA 100-year floodplain would be minimal. During the FEMA 100-year event, water surface elevation was calculated to drop by 0.1 to 0.2 feet due to implementation of the Precise Plan. During all other flood events, water surface elevations would decrease by as much as 0.9 feet as a result of the project. This is considered a potentially significant impact. Implementation of Master EIR Mitigation Measure Hydro-2 from the Master EIR would address this impact.

**Master EIR Mitigation Measure Hydro-2:** Detailed grading plans shall be developed in accordance with standard hydrologic and hydraulic engineering practices to ensure that the proposed grading does not result in any increase in base flood water surface elevations. The grading design shall not significantly increase river flow velocities.

Implementation of this mitigation measure would reduce this impact to a less-than-significant level.

### Hydraulic Roughness

The proposed riparian planting scheme may increase the hydraulic roughness of the channel and overbank areas and could lead to increases in the water surface elevations. This is considered a potentially significant impact.

**Mitigation Measure Hydro-4:** Detailed riparian planting schemes shall be developed in accordance with standard hydrologic and hydraulic engineering practices to ensure that the proposed structures do not result in any increase in base flood water surface elevations. The riparian planting scheme shall be designed to prevent creating floating debris dams during flood events that would impact flood conveyance.

Implementation of this mitigation measure would reduce this impact to a less-than-significant level.

### Inundation of the Amphimeadow

The proposed amphimeadow could be subject to frequent inundation during flood events. This is considered a potentially significant impact. Implementation of Mitigation Measure Hydro-5 from the Master EIR would address this impact.

**Mitigation Measure Hydro-5:** The elevation of the amphimeadow shall be raised to reduce the frequency of inundation. Detailed grading and construction plans for the amphimeadow shall be developed in accordance with standard hydrologic and hydraulic engineering practices to ensure that construction of the amphimeadow would not result in any increase in water surface elevations. Water shear and scour analyses shall be also be performed and if necessary surface protection shall be provided for the banks and surrounding area to prevent scour and erosion.

Implementation of this mitigation measure would reduce this impact to a less-than-significant level.

### i) **Seiche, Tsunami, or Mudflow Hazards**

The Gateway Parcel is not subject to seiches, tsunamis, or mudflows, and no impacts are anticipated.

	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 checked="" type="checkbox"/>	<input 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"/>

## Discussion

### a) **Divide an Established Community**

The Gateway Parcel Precise Plan would only affect the Gateway Parcel and would not divide an established community.

### b) **Conflict with Land Use Plans and Policies**

The Gateway Parcel Precise Plan is consistent with the TRRP Master Plan adopted by the City of Modesto in 2001, which envisions recreation, public access and public gathering facilities and ecological restoration within the Gateway Parcel.

### c) **Conflict with Habitat Conservation Plans**

The Gateway Parcel Precise Plan would restore the degraded riparian corridor along Dry Creek and the Tuolumne River. This is consistent with the TRRP Master Plan.

	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"/>

## Discussion

### a-b) Mineral Resources

The project site is not known to contain any mineral resources that are important to the region or the State. The project site is not known to contain locally important mineral resources and none of these resources are delineated on a local plan, specific plan or other land use plan.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XI. Noise.</b> Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) 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 checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Environmental Setting

The following information is based on the January 31, 2005 Preliminary Acoustical Analysis prepared by Bollard and Brennan (2005) for the Gateway Parcel Precise Plan.

### Applicable Noise Standards, Policies and Criteria

City of Modesto General Plan Noise Element sets forth land use compatibility criteria for various community land uses. The Noise Element specifies that residential land uses are considered to be "normally acceptable" in areas where exterior noise levels are as high as 60 dB Ldn without the need for noise mitigation, and "conditionally acceptable" (with mitigation) in noise environments up to 70 dB Ldn.

In addition to the City of Modesto's Ldn-based noise level standards, the Stanislaus County General Plan Noise Element also contains performance standards for stationary noise sources. Specifically, Table II on page 4-13 of the General Plan presents the noise standards that would also be applicable to the project-related noise (see Table 3).

Table 3 Maximum Allowable Noise Exposure from Stationary Noise Sources		
	Daytime (7 a.m. - 10 p.m.)	Nighttime (10 p.m. - 7 a.m.)
Hourly $L_{eq}$ , dB	50	45
Maximum Level, $L_{max}$ , dB	70	65
Source: Table II on Page 4-13 of Stanislaus County General Plan		

The significance of project-related noise impacts is also determined by comparison of project-related noise levels to existing no-project noise levels, as required by CEQA. An increase of at least 3 dB in similar noise sources is usually required before most people will perceive a change in noise levels, and an increase of 5 dB is required before the change will be clearly noticeable.

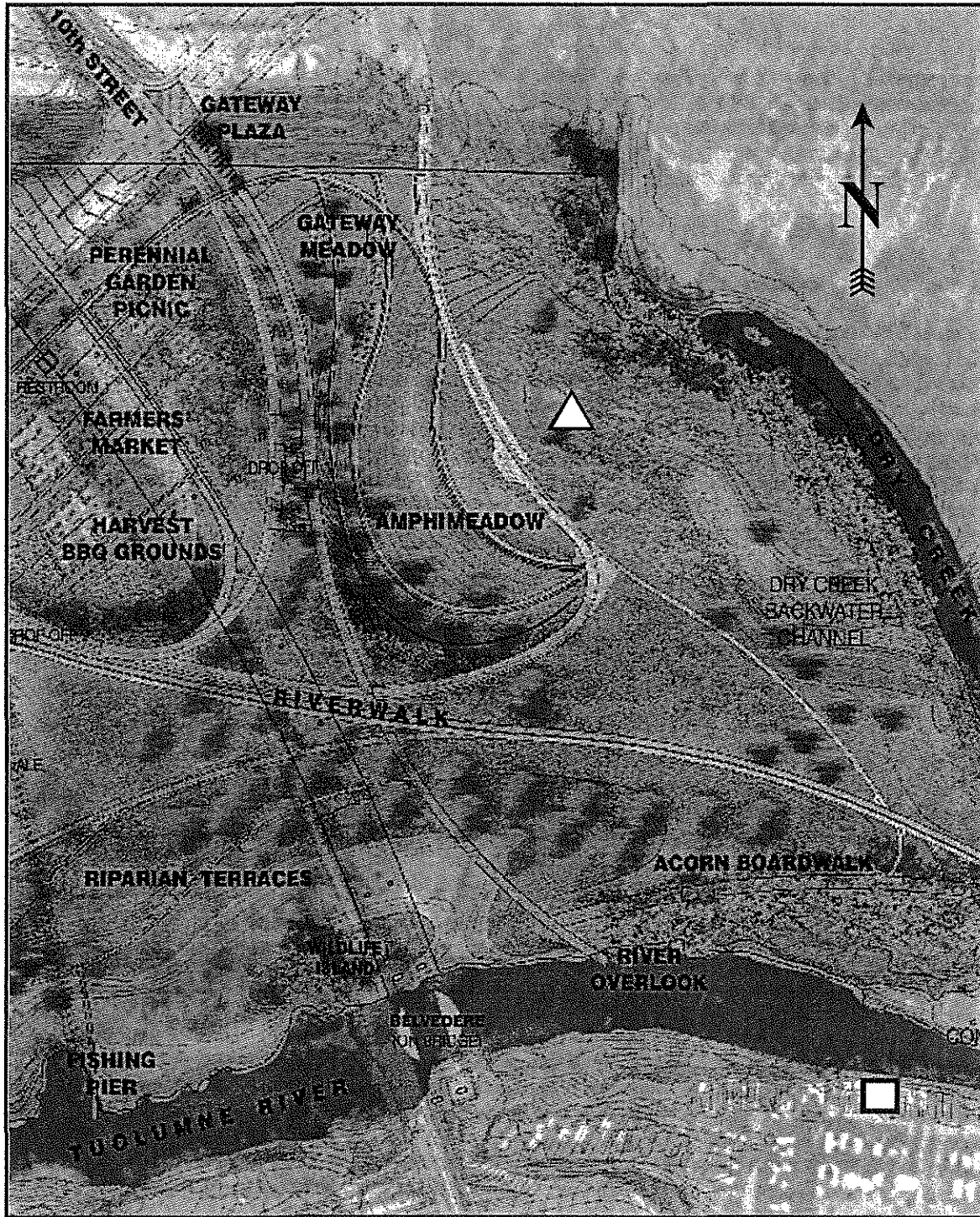
For dissimilar noise sources – such as the introduction of noise consisting of speech and/or music into an area primarily affected by traffic, railroad, and industrial noise – a smaller increase is required for the new sound to be perceptible. Because the new noise source associated with this project would be dissimilar relative to the existing ambient noise environment, a project-related noise standard similar to the existing ambient noise environment (measured) would be appropriate for use in the assessment of project-related noise impacts. Therefore, calculated project-related noise exposure at the closest residential receivers to the south-southeast should be equal or less than the measured ambient noise exposure to be considered a “less than significant” impact.

### Ambient Noise Measurements

To quantify worst-case noise levels in the project area, short-term noise level measurements were conducted on September 14, 2004 between 12:00 and 1:00 p.m. on the amphimeadow project site. The noise measurement location is shown in Figure 5. The measured average ambient noise level ( $L_{eq}$ ) at the measurement site was approximately 56 dB. Maximum noise levels ( $L_{max}$ ) were recorded at approximately 60 dB from local traffic and construction, and the distant canning operations; and approximately 75 dB from Union Pacific Railroad (UPRR) train warning horns.

The closest noise-sensitive receivers to the proposed amphimeadow are approximately 950 feet south-southeast of the proposed project stage, on the south side of the Tuolumne River (see Figure 5). The existing ambient noise environment in this area is subjectively considered to be moderately loud, and is defined primarily by roadway traffic and distant industrial noise (seasonal). Noted noise sources which were audible at the project site during the noise measurement survey consisted of local roadway traffic, local construction, and typical residential neighborhood activities. To quantify typical noise levels in this area, long-term (24 hours) noise level measurements were conducted on December 2-3, 2004 within the backyard of the existing residence at 913 River Road in Modesto, California. These measurements were representative of the existing ambient noise environment in the vicinity of the closest noise-sensitive receivers to the proposed amphimeadow facility.

**Noise Monitoring and Measuring Sites**



□ : 24-Hour Noise Monitoring Site      △ : Short-Term Noise Measurement Site

Source: TRRP Gateway Parcel  
 Preliminary Acoustical Analysis  
 - Amphimeadow,  
 May 2005  
 by Bollard & Brennan, Inc.  
 Acoustical Engineers

**Figure 5**

The noise measurement location is shown in Figure 5. Measured average hourly ambient noise levels ( $L_{eq}$ ) ranged from approximately 53-64 dB, with levels of approximately 54-55 dB measured during the evening hours (7 p.m.- 9 p.m.) when the amphitheater performances are expected to occur. Therefore, to be considered a less-than-significant impact, projected amphimeadow noise levels at existing homes near the proposed facility should not exceed approximately 55 dB.

## Discussion

### a-c) Noise from the Amphimeadow

Noise associated with the proposed amphimeadow would increase noise exposure levels at nearby residences. To provide for adequate sound levels for its future patrons, it is assumed that the amphimeadow sound system would provide for sound levels of approximately 85 dB at the rear of the amphitheater seating area, approximately 275 feet from the stage. Assuming standard spherical spreading loss (-6 dB per doubling of distance) and no noise mitigation in the sound propagation path (between the top of the amphitheater bowl and the closest residences to the south-southeast), noise exposure from the amphimeadow would be approximately 74 dB at the closest residential properties to the south-southeast. This is consistent with the findings of the TRRP Master Plan EIR, which also concluded that noise exposure from the amphimeadow would be approximately 74 dB at the nearest residences.

A noise exposure level of 74 dB would exceed the "normally acceptable" (60 dB Ldn) and "conditionally acceptable" (70 dB Ldn) noise standards established in the City of Modesto General Plan Noise Element for residential uses, as well as the maximum allowable noise exposure level presented in the Stanislaus County General Plan Noise Element (70 Lmax, dB). This would also exceed the existing ambient noise exposure by approximately 19 dB. This would be a significant impact and is consistent with the findings of the Master EIR.

Mitigation Measure Noise-2 of the Master EIR required that an acoustical engineer be retained to identify and incorporate all feasible mitigation measures available for reducing noise-related impacts to nearby noise-sensitive receptors. Bollard and Brennan conducted an acoustical analysis for the Gateway Parcel Precise Plan that addresses amplified concerts and performances at the amphimeadow. To mitigate amphimeadow sound system noise exposure at the closest residential properties to 55 dB Leq or less (established noise criterion), the following recommendations from the Preliminary Acoustical Analysis (2005) shall be incorporated into the project design.

**Precise Plan Mitigation Measure Noise-1:** Re-orient the amphimeadow stage and seating areas no less than 20 degrees clockwise so that the stage and associated sound system face more toward the west, away from the noise-sensitive residential properties to the south-southeast.

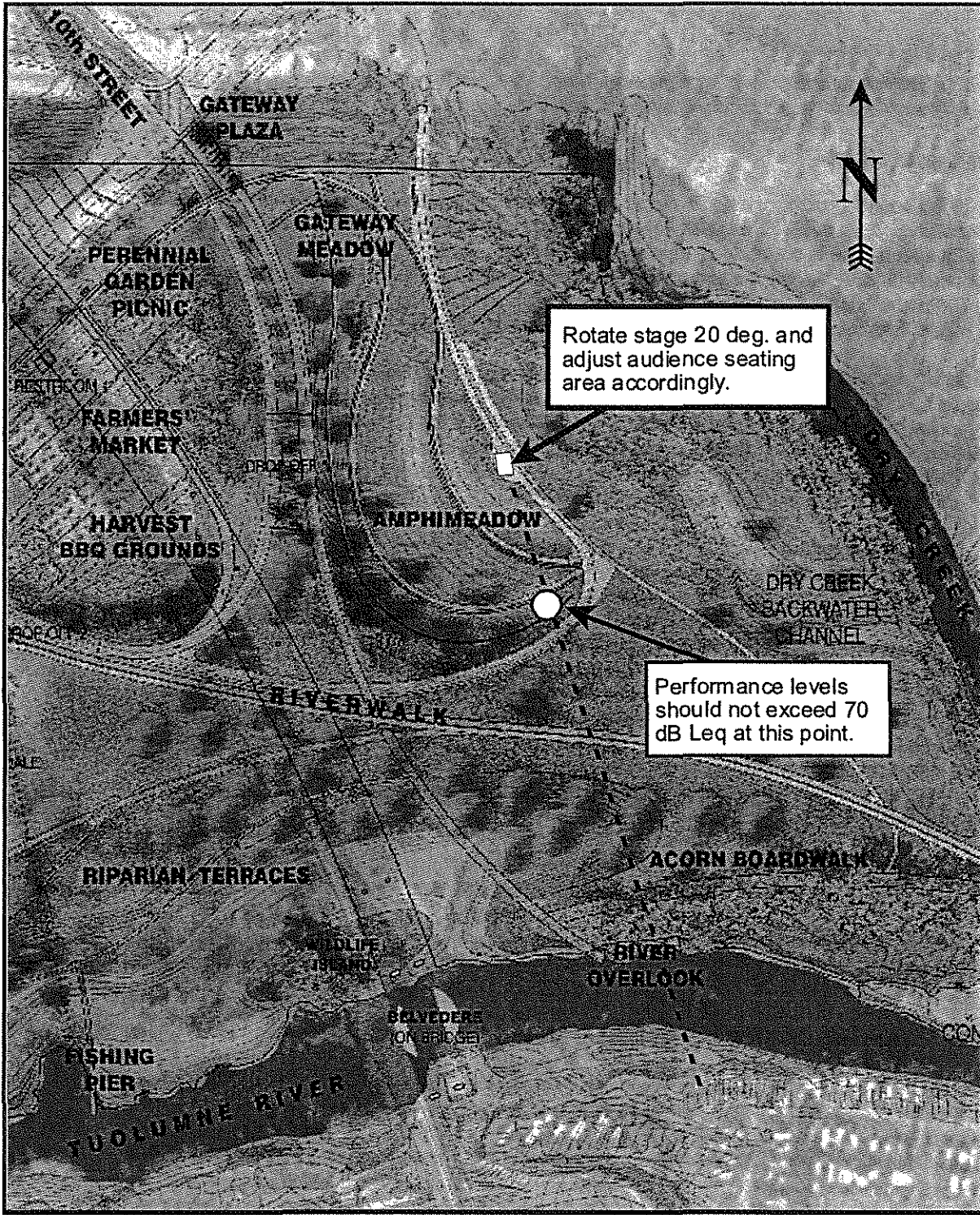
**Precise Plan Mitigation Measure Noise-2:** Provide a project-specific sound system to be used for all performances at the amphimeadow. This sound system should be designed to achieve the design goals presented above. In addition, the system should be designed to produce sound levels not exceeding 70 dB at the reference location presented in Figure 6. It is estimated that if sound levels are mitigated to 70 dB at this location, projected amphimeadow sound levels will be 55 dB or less at the closest residential properties to the south-southeast. The sound system should be designed and installed by qualified professionals.

**Precise Plan Mitigation Measure Noise-3:** Incorporate a stage enclosure into the project design. This enclosure should be designed to maximize natural sound re-enforcement from the stage while mitigating noise exposure into project areas outside of the amphimeadow seating area.

If all three of these mitigation measures are determined to be feasible and are adopted and implemented by the City of Modesto, the impact would be reduced to a less-than-significant level.



**Amphimeadow Noise Mitigation Recommendations**



○ : Reference Sound Measurement Site

Source: TRRP Gateway Parcel  
 Preliminary Acoustical Analysis  
 - Amphimeadow,  
 May 2005  
 by Bollard & Brennan, Inc.  
 Acoustical Engineers

**Figure 6**



As noted in the project description, no large events will be allowed at the amphimeadow until the Tuolumne Boulevard extension is constructed or an alternate access is provided.

### **Noise from Special Events**

Use of amplified sound systems at special events could also increase noise exposure levels at nearby sensitive receptors. Both the TRRP Master Plan and the Gateway Parcel Precise Plan assume that attendance at special events could be as high as 15,000 people. Predicted sound levels at 100 feet would be approximately 68 dBA, without the use of amplified sound systems. Assuming a maximum sound level of 68 dBA at 100 feet and a "normal" attenuation rate of 6 dBA per doubling of distance from the source, predicted sound levels at approximately 1,000 feet would be approximately 48 dBA.

Predicted noise levels at the nearest residences, which are located in excess of 1,000 feet from the proposed events, would be less than the measured daytime ambient noise levels of approximately 54 dBA. Thus, the increase in noise associated with crowds attending special events at the Gateway Parcel would not result in a noticeable increase (i.e., 3 dBA or greater) in daytime ambient noise levels at these residences. In addition, the resultant increase in ambient noise levels at these nearby residences would not be anticipated to exceed the City's "normally acceptable" noise standard of 60 dBA CNEL.

However, if the use of amplified sound systems is allowed at such seasonal events, noticeable increases in daytime noise levels at nearby residences would likely occur. In addition, events occurring during the quieter evening and nighttime hours (with or without the allowed use of amplified sound systems) would also be anticipated to result in noticeable increases in ambient noise levels at these residences and, as such, would be anticipated to result in increased levels of annoyance to occupants of these residences.

As stated in the Master EIR, the crowds associated with special events held during the daytime would not cause a significant increase in ambient noise levels at nearby residences. In addition, the resultant increase in ambient noise levels at nearby residences would not be anticipated to exceed the City's "normally acceptable" noise standard of 60 dBA CNEL. However, the use of amplified sound systems or special events occurring during the nighttime could increase ambient noise levels at nearby residences. This is a potentially significant impact.

The following mitigation measure was adopted by the City of Modesto for the TRRP Master Plan Master EIR and will be implemented to reduce noise impacts resulting from the Gateway Parcel Precise Plan.

**Master EIR Mitigation Measure Noise-3:** Special events shall be limited to between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and between the hours of 9:00 a.m. and 9:00 p.m. on weekends. This would reduce potential noise impacts during the nighttime.

This impact would remain significant and unavoidable following mitigation.

Implementation of this mitigation measure would reduce noise impacts associated with large special events; however, the use of amplified sound systems during special events could result in a significant increase in the ambient noise levels at nearby residences. For this reason, this impact is considered significant and unavoidable. This is consistent with the findings of the Master EIR. The City of Modesto adopted a Statement of Overriding Considerations for the Master EIR which acknowledged this significant and unavoidable impact and determined that the benefits of the TRRP Master Plan, including the Gateway Parcel, outweigh the impacts.

As noted in the project description, no large special events will be allowed in the park until the Tuolumne Boulevard extension is constructed or an alternate access is provided.

**d) Construction Noise**

Project construction and grading would cause a temporary increase in ambient noise levels in the project vicinity. The proposed Precise Plan is consistent with the TRRP Master Plan, which envisions recreation, public access and public gathering facilities and ecological restoration within the Gateway Parcel. The assumptions for construction and grading operations remain the same as those assumed in the Master EIR. Consequently, the noise impact resulting from construction and ground-disturbing activities would be the same as that identified in the Master EIR.

As stated in the Master EIR, noise from localized point sources (such as construction sites) typically decreases by about 6 dBA with each doubling of distance from source to receptor. Given this noise attenuation rate, the average noise level of construction activities would be 84 dBA, Leq at the project site boundary. At this noise level, areas within approximately 1,500 feet of the project site could experience intermittent construction-generated noise levels in excess of 60 dBA for brief periods of time.

Noise levels in excess of 60 dBA may result in temporary interference with speech recognition and increased levels of annoyance, particularly within the outdoor activity areas of the residences, and would result in a noticeable increase (e.g., 3 dBA, or greater) in ambient noise levels. However, these impacts would be short-term. In accordance with the City of Modesto Municipal Code, noise-generating construction activities would be limited to daytime hours of 7:00 a.m. to 9:00 p.m. on weekdays and 9:00 a.m. to 9:00 p.m. on weekends. Because construction noise would be short-term and because compliance with the City's Municipal Code requirements would reduce annoyance and sleep disruption to occupants of nearby residences, construction-generated noise is considered less than significant. This is consistent with the findings of the Master EIR.

**e,f) Airport or Private Airstrip**

The Gateway Parcel is within the planning area boundary of the Modesto City-County Airport (Area 4) identified in the Stanislaus County Airport Land Use Commission Plan. The Stanislaus County Airport Land Use Commission reviewed the proposed Gateway Precise Plan and determined that the project appears to be compatible with their plan. According to Federal Aviation Regulation Part 150, the proposed land uses and structures would be compatible without restrictions. The City will consult with the Stanislaus County Airport Land Use Commission during the design phase of the project to ensure that the project features are compatible with the plan.

	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 (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing homes, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion

- a-c) The Gateway Parcel Precise Plan does not propose new housing or businesses which could induce population growth. The Precise Plan would not displace housing; therefore, this project would not necessitate the construction of replacement housing elsewhere.



	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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**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 the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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"/>

**Discussion**

The Master EIR presents relevant public services setting information. Since publication of the TRRP Master Plan Master EIR, no changes or new information relating to the proposed facilities in the Gateway Parcel have occurred that would alter the findings in the Master EIR pertaining to public services.

The following discussion is based on the public services discussion presented in the TRRP Master Plan Master EIR.

**Fire Protection Services**

By developing a park on the vacant Gateway Parcel, the Precise Plan would increase the number of visitors to the site, which would potentially increase demand for fire protection and emergency medical services at the site. The proposed native vegetation would consist primarily of low-lying native grasses and shrubs, with some scattered trees. Native vegetation would not substantially increase the fire hazard beyond what currently exists at the Gateway Parcel. Please see Hazards and Hazardous Materials for a discussion of potential project impacts associated with wildland fires.

While the majority of the roadways, trails and paths proposed at the Gateway Parcel would provide adequate access for emergency vehicles, some of the narrower, unpaved paths planned within the ecological restoration areas along the Tuolumne River and Dry Creek would not provide adequate access. Please see

the Traffic/Transportation discussion presented in this Initial Study for a discussion of potential project effects on emergency access.

As explained in the Hazards and Hazardous Materials and Traffic/Transportation sections of this Initial Study, implementation of Master EIR Mitigation Measure Fire-1 and Master EIR Mitigation Measure Fire-2 would reduce potential impacts on fire protection services to less-than-significant levels.

### **Police Services**

Implementation of the Gateway Parcel Precise Plan would likely require additional police patrols daily for enhanced security due to the increased number of park users. Special events would require additional police presence for the duration of the event. These additional patrols would not substantially affect service ratios, response times, or other performance. As stated in the Master EIR, no new police facilities would be needed as a result of the project (Joe Aja, Modesto Police Department, Personal Communication, November 21, 2000). Since publication of the Master EIR, no changes or new information relating to the proposed facilities in the Gateway Parcel have occurred that would alter the findings in the Master EIR pertaining to police services. Therefore, this is not considered a significant impact.

### **School Facilities**

The Gateway Parcel Precise Plan would not require additional school facilities since it would not induce population growth. No students are anticipated as a result of project development.

### **Increased Demand for Park Facilities and Open Spaces**

Implementation of the Gateway Parcel Precise Plan would increase the amount of parkland available and accessible to the public, thereby taking pressure off of other recreational facilities in the area. The proposed project would not increase the use of other neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of those facilities would occur.

The Gateway Parcel Precise Plan may also require additional parks personnel to maintain and administer the proposed facilities and activities envisioned for the Gateway Parcel. The Gateway Parcel Precise Plan would be funded independently through the Joint Powers Authority, which includes the City of Modesto, City of Ceres, and County of Stanislaus. The number of additional parks personnel needed would not substantially reduce the Cities' and County's ability to provide such services elsewhere.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XIV. Recreation.</b> 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Discussion

### a) Use of Existing Neighborhood and Regional Parks

The proposed project would develop a park at the Gateway Parcel as envisioned in the TRRP Master Plan Master EIR. The project would not increase the use of existing neighborhood or regional parks.

### b) Recreation Facilities that Might Have an Adverse Physical Effect on the Environment

The Gateway Parcel Precise Plan would develop a regional park at the Gateway Parcel as envisioned in the TRRP Master Plan Master EIR. Implementation of the Precise Plan would result in some adverse environmental effects, as discussed elsewhere in this document. The impacts identified in this Initial Study are consistent with the findings of the Master EIR. Mitigation measures are proposed to reduce most significant impacts to less-than-significant levels. Impacts determined to be significant and unavoidable are consistent with the findings of the Master EIR and the City of Modesto adopted a Statement of Overriding Considerations for the Master EIR which acknowledged these impacts and determined that the benefits of the project outweigh the impacts. Therefore, no additional 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 which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exceed, individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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"/>

## Environmental Setting

The following description of existing roadways, traffic volumes and lane configurations, transit service, pedestrian and bicycle facilities, intersection levels of service and roadway segment levels of service, is based on the May 2005 Administrative Draft Tuolumne River Regional Park Gateway Parcel Traffic Analysis prepared for the project by Fehr & Peers Transportation Consultants.

## Study Area Roadways

Regional vehicular access to the project site is provided via State Route 99 (SR 99), while local access is provided via Tuolumne Boulevard and Ninth Street. These facilities are described below.

SR 99 is a six-lane, north-south freeway located to the west of the Project site. This freeway extends throughout the length of California. An interchange at Tuolumne Boulevard/B Street provides access to the site. The speed limit on SR 99 is 65 miles per hour (mph).

Tuolumne Boulevard/B Street is an east-west minor arterial that extends from Paradise Avenue on the west to Seventh Street on the east as Tuolumne Boulevard, and then continues eastward as B Street to its terminus at Twelfth Street. The facility provides four travel lanes and a full interchange at SR 99. Tuolumne Boulevard is proposed to be realigned through the project site, with a grade separation at Seventh Street and the railroad tracks, and an interchange at Ninth Street. The Tuolumne Boulevard realignment project is not a part of the proposed Gateway Parcel project.

Ninth Street is a four-lane, north-south arterial that extends northward from SR 99 in Ceres through downtown Modesto. Access to the project site from Ninth Street would be provided via ramps connecting Ninth Street to the proposed Tuolumne Boulevard extension. The Ninth Street ramps are not a part of this project, but are a part of the Tuolumne Boulevard extension project.

### **Study Intersections and Roadway Segments**

Intersection operations were evaluated during the evening peak period on Friday (5:00 to 7:00 PM) and the afternoon peak period on Saturday (2:00 to 4:00 PM). These time periods were selected because amphimeadow events would most likely occur on Friday evenings with peak trip generation between 5:00 and 7:00 PM, and special events would be held on weekends, with the peak trip generation between 2:00 and 4:00 PM. Some events would also occur during the summer months (July through September) when the nearby Stanislaus Foods reaches their peak activity. Therefore, the operations analysis was also conducted for summer months with the added Stanislaus Foods employee truck traffic.

Two intersections in the vicinity of the project site were analyzed:

- SR 99/Tuolumne Boulevard
- Ninth Street/B Street
- A roadway segment analysis was also performed for the following roadway segments:
  - Ninth Street bridge over the Tuolumne River
  - B Street, west of Ninth Street (existing conditions only)
  - Realigned Tuolumne Boulevard, west of Ninth Street (cumulative conditions only)

### **Existing Traffic Volumes and Lane Configurations**

Friday evening (5:00 to 7:00 PM) and Saturday afternoon (2:00 to 4:00 PM) peak period intersection turning movement counts were conducted at the study intersections in December 2004 on clear days with area schools in normal session. These time periods were selected to correspond with the expected peak operation of the site, prior to a Friday amphimeadow event and on a Saturday with a special event. For each intersection, the single hour with the highest traffic volumes during each of the two count periods was identified. The peak hour data is used as the basis for analysis.

### **Stanislaus Foods and Summer Volumes**

Several events would occur during the summer when the nearby Stanislaus Foods reaches its peak activity. The added traffic generated by the added employee and truck activity was estimated based on information provided by Stanislaus Foods. During the peak tomato harvest/processing months (July through September), approximately 900 truck loads are hauled from the fields to the facility (over a 24-hour period).



Trucks arrive from fields in the south during July and August (through August 20th), and from fields in the north from August 20th through September. Based on information provided by Stanislaus Foods, trucks from the south exit the freeway from Ninth Street and trucks from the north exit the freeway at the Downtown Modesto G Street interchange. Other deliveries are made throughout the day (approximately 600 truck trips) and internal truck movements occur throughout the Stanislaus Foods campus. Approximately 2,400 employee trips occur throughout the day, primarily concentrated around shift change times (three shifts per day). Approximately 30 percent of employee trips come from the north and 70 percent come from the south. The added traffic from Stanislaus Foods was estimated and added to the non-summer month intersection traffic counts. These volumes represent "summer" months.

### **Traffic from Gallo Glass**

Gallo Glass operates with the same schedule year round, and traffic counts conducted in December 2004 for the Traffic Impact Analysis report accounted for Gallo's traffic.

### **Modesto & Empire Traction Company**

Modesto & Empire Traction Company operates seven trains a day on the tracks along Yosemite Boulevard/H132 to and from Gallo Glass. The frequency of service is one train between 3:00 and 5:00 AM, one to two trains between 5:00 and 7:00 AM, one train between 5:00 and 7:00 PM, and two to three trains between 11:00 PM and 3:00 AM. Additional trains may run if there is an additional customer request.

Stanislaus Foods trains for their peak season are less frequent and use tracks from B Street to the Union Pacific Railroad tracks between 7th and 8th Streets. These trains run in the morning (one train between 7:00 and 9:00 AM) and late evening (one to two trains between 9:00 and 11:00 PM).

### **Transit Service**

Bus service in the study area is provided by Modesto Area Express (MAX) and Stanislaus Regional Transit (StaRT).

#### **Modesto Area Express (MAX)**

MAX currently provides service to the project site vicinity via one route – Route 29. This route connects downtown Modesto and the Ceres area via Ninth Street in the study area. In downtown Modesto, a stop is provided at the regional transit center. From this stop, passengers can transfer to numerous other bus routes. In the study area, a bus stop is provided on Ninth Street, south of D Street. On weekdays and Saturdays, service is provided from 6:15 AM to 7:15 PM on 30-minute headways. On Sundays, the route operates on one-hour headways from 8:45 AM to 5:45 PM.

#### **Stanislaus Regional Transit (StaRT)**

StaRT provides regional transit service throughout Stanislaus County, but it does not provide fixed stops within the vicinity of the project site. However, StaRT does operate Runabouts, a transit service that combines fixed-route service (with fixed stops) and dial-a-ride service (with curb-to-curb service). Passengers can use this fixed-route service without making prior arrangements; they must make advance reservations for curbside service. The Turlock/Modesto, Waterford/Modesto, and Eastside Runabouts operate in the study area.

### **Pedestrian and Bicycle Facilities**

Pedestrian facilities include sidewalks, crosswalks, and pedestrian signals. Sidewalks are provided on some existing roadway facilities in the study area.

Bicycle facilities include the following:

- Bike paths (Class I) – Paved trails that are separated from roadways.
- Bike lanes (Class II) – Lanes on roadways that are designated for use by bicycles through striping, pavement legends, and signs.
- Bike routes (Class III) – Roadways designated for bicycle use by signs only; may or may not include additional pavement width for cyclists.

No designated bicycle facilities are currently provided in the study area.

### **Existing Intersection Levels of Service**

Existing intersection operations were evaluated for the Friday PM and Saturday afternoon peak hour at the two study intersections for both non-summer and summer months. The existing traffic volumes were used with the existing lane configurations and signal phasing as inputs into the LOS calculations to evaluate current operations.

During both the Friday evening and Saturday afternoon peak hours, both study intersections operate at LOS C or better during the non-summer months.

During summer months with the addition of traffic from Stanislaus Foods, operations of the SR 99/Tuolumne Boulevard intersection degrade to an unacceptable service level during both the Friday and Saturday peak hours. The Ninth Street/B Street intersection would degrade to LOS E during the Friday PM peak hour, but would operate at an acceptable service level C during the Saturday peak hour. It should be noted that this analysis assumes that shift changes would occur between 5:00 and 7:00 PM on a Friday and between 2:00 and 4:00 PM on a Saturday to present a conservative "worst-case" assessment of traffic through the study area.

### **Existing Roadway Segment Levels of Service**

Results of the roadway segment analysis indicate that both roadways are currently operating at acceptable service levels during the Friday evening and Saturday afternoon peak hours in the non-summer and summer months. However, southbound Ninth Street operates at LOS D during the Friday evening peak hour in the non-summer months and at LOS E in the summer months. All segments are operating at LOS A, with the exception of southbound Ninth Street, which operates at LOS D during the Friday evening peak hour.

## **Discussion**

### **a,b,f) Increased Traffic and Parking**

The Gateway Parcel Precise Plan follows the traffic assumptions made in the TRRP Master Plan and the Master EIR. Since publication of the Master EIR, there have been no changes or new information relating to transportation/traffic conditions in the project area that would alter findings in the Master EIR. To satisfy the requirements of the mitigation measures presented in the Master EIR, a traffic and parking analysis management plan was prepared for the Gateway Parcel Precise Plan. The following impact analysis is based on the May 2005 Administrative Draft Tuolumne River Regional Park Gateway Parcel Traffic Analysis prepared for the project by Fehr & Peers Transportation Consultants.

For the purposes of analysis, this Initial Study assumes that the Tuolumne Boulevard extension will be constructed prior to operation of the park's event facilities, which include the amphimeadow and the farmer's

market area. However, construction of the Tuolumne Boulevard extension may not occur for several years due to funding issues. Additionally, the project site is within a redevelopment area and substantial growth may occur in the site vicinity over the next several years. Consequently, future traffic conditions may differ from the traffic projections and assumptions developed for this Initial Study.

To address this uncertainty, no large special events, amphimeadow events, or farmer's market events will be allowed in the park until the Tuolumne Boulevard extension is constructed or an alternate access to the park is provided. In the meantime, passive recreation activities and smaller, informal gatherings that would not result in significant traffic impacts will be allowed to occur within the park. When construction of Tuolumne Boulevard extension occurs or an alternate access to the park is provided, a new traffic study will be prepared to assess the impacts of these events, and the project will undergo further environmental review.

### **Roadway Segment Analysis Under Existing Plus Project Conditions**

With the addition of traffic from typical park operations, all roadway segments would continue to operate at acceptable service levels. Conditions are not expected to degrade to unacceptable levels during a special event or amphimeadow event on either Friday evening or Saturday afternoon during non-summer months.

During summer months, the Ninth Street bridge is projected to continue to operate at an unacceptable service level E during the Friday evening peak hour. All other segments would operate at acceptable service levels during the summer. Since the Ninth Street bridge is currently operating at LOS E during the Friday evening peak hour in the summer months, the addition of project traffic from typical day park operations or from special events or amphimeadow events would not substantially degrade roadway segment operations in the area.

### **Traffic Impacts Occurring Under Existing Plus Project Conditions**

#### **Typical Day Park Operations**

On a typical weekday, the Gateway Parcel is expected to generate approximately 410 daily vehicle trips, including 18 peak hour trips. On a typical Saturday, the Gateway Parcel is expected to generate 510 vehicle trips, including 34 peak hour trips.

Typical day park operations during both the weekday PM and Saturday afternoon peak hour would not degrade the operation of either study intersection during the non-summer months.

#### **Friday PM Peak Hours (5:00 to 7:00 PM)**

During the summer months, the SR 99/Tuolumne Boulevard intersection is projected to operate at a deficient service level prior to the addition of project traffic (this analysis assumes a large shift-change at Stanislaus Foods between 5:00 and 7:00 PM on a Friday, and between 2:00 and 4:00 PM on a Saturday). During a typical summer Friday, the proposed project would increase traffic through the SR 99/Tuolumne Boulevard intersection by seven vehicles, or less than one percent. This increase in traffic would increase the average delay by two seconds and a worst movement (eastbound left-turn) average delay by eight seconds. The significance threshold would be exceeded if the project would increase traffic volume by five percent or more, or if it would increase the average delay by five seconds or more. Since this intersection is projected to operate at a deficient service level prior to the addition of project traffic, and since the project increases traffic by less than one percent and the average delay by only two seconds, this impact is considered less than significant.

Between 5:00 and 7:00 PM on a Friday, approximately 75 workers depart the Stanislaus Foods facility. (Note: Stanislaus Foods production staff shift changes occur between 2:00 and 4:00 PM.) Assuming all of these workers depart through the SR 99/Tuolumne Boulevard intersection, the intersection would operate at

an overall LOS A, with the side street operating at LOS C. Based on these considerations, this impact is considered less than significant.

#### Saturday Peak Hours (2:00 to 4:00 PM)

During a typical summer Saturday, the proposed project would increase traffic through the SR 99/Tuolumne Boulevard intersection by 12 vehicles, or less than one percent. This increase in traffic would increase the average delay by two seconds and the worst movement (eastbound left-turn) delay by eight seconds. Since this intersection is projected to operate at a deficient service level prior to the addition of project traffic, and since the project increases traffic by less than one percent and the average delay by only two seconds, this impact is considered less than significant.

The proposed project increases traffic through the worst movement (eastbound left-turn) by less than one percent (two vehicles) during the Saturday peak hours. The addition of project traffic would worsen operation of the side-street stop-controlled movement by more than five seconds, although the average intersection delay would increase by two seconds on both a Friday evening and Saturday afternoon. Based on these considerations,

#### Amphimeadow

During an amphimeadow event, approximately 2,600 daily trips are expected, including 900 trips during the peak hour before an event and 1,020 trips during the peak hour after an event.

During a Friday evening amphimeadow event, operations of both study intersections are expected to degrade to unacceptable service levels (LOS E and F) year-round, which would exceed the City of Modesto's LOS "D" standard within the project vicinity. On a Saturday non-summer afternoon with an event, conditions are expected to worsen, but deficient LOS E or F conditions are not expected. On a Saturday afternoon during summer months, both intersections are anticipated to degrade to unacceptable levels, assuming that a shift change at Stanislaus Foods occurs during peak event arrival and departure times.

This impact would occur intermittently because it would be associated with visitors arriving and departing amphimeadow events. However, this short-term increase in traffic would create a noticeable increase in traffic congestion above typical patterns, which could create substantial annoyance for area residents or commuters. This is considered a significant impact. This finding is consistent with the Master EIR traffic impact analysis.

Mitigation Measure Traffic-1 from the Master EIR requires that a traffic management plan be prepared to address this traffic impact resulting from amphimeadow events once detailed site plans are developed for the Gateway Parcel. The May 2005 Administrative Draft Tuolumne River Regional Park Gateway Parcel Traffic Analysis is presented in Precise Plan Mitigation Measure Traffic-1 below. Implementation of this mitigation measure would ensure acceptable traffic operations during amphimeadow events and would reduce this impact to a less-than-significant level.

#### Special Events

A Saturday special event (which may include Cinco de Mayo celebrations, Scottish Games and an Armenian Festival) with 15,000 spectators is expected to generate approximately 11,600 daily trips, including approximately 1,120 trips during the peak hour. These crowds would not all arrive or depart from the area at the same time, and as a result the traffic impact would be spread over a period of time. On a Saturday non-summer afternoon with an event, traffic conditions are expected to worsen, but deficient LOS E or F conditions are not expected. On a Saturday afternoon during summer months, both intersections are anticipated to degrade to unacceptable levels, assuming that a shift change at Stanislaus Foods occurs



during peak event arrival and departure times. This is considered a significant impact and is consistent with the findings of the Master EIR traffic impact analysis.

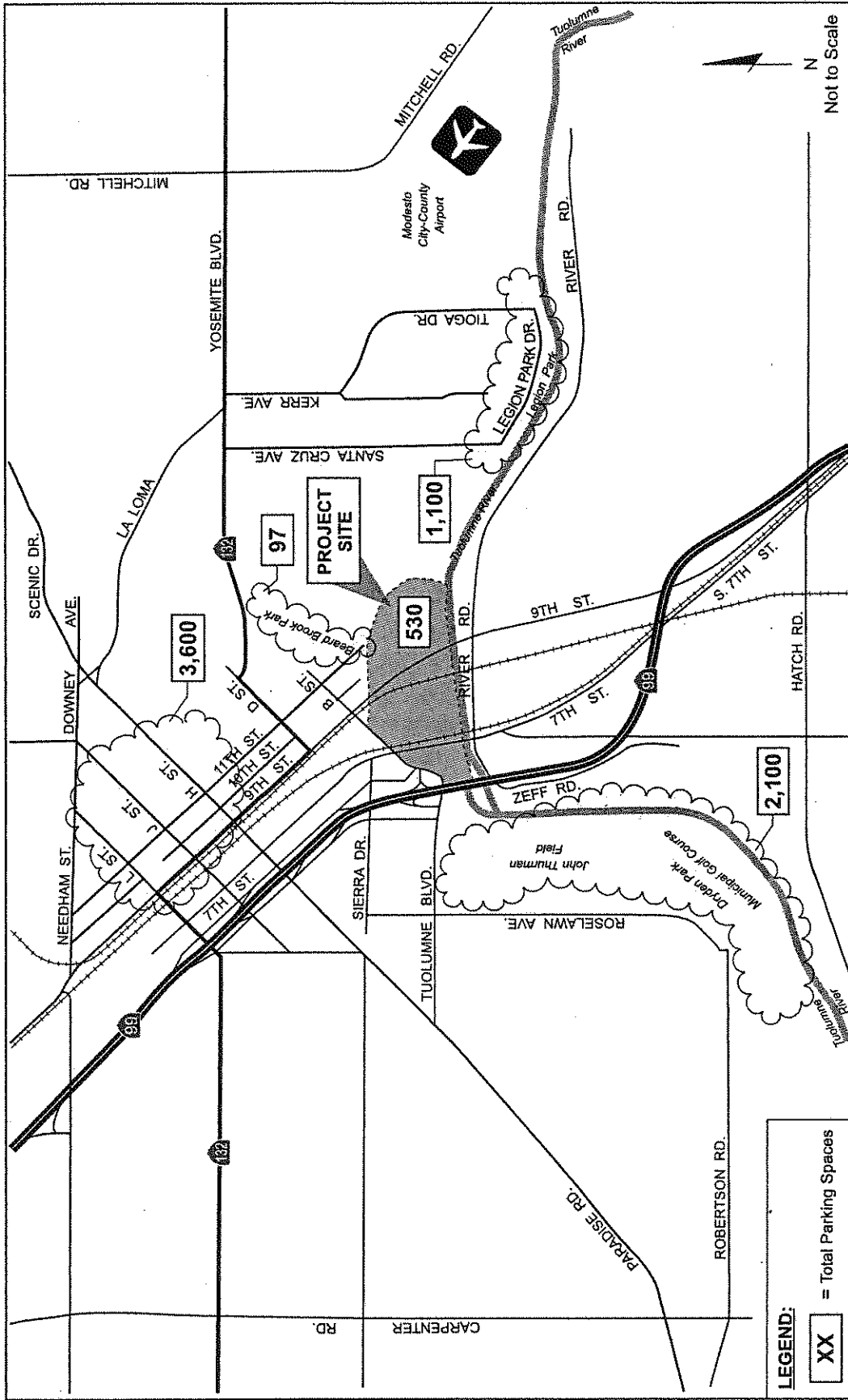
Mitigation Measure Traffic-2 from the Master EIR requires that a traffic management plan be prepared to address the traffic impact associated with special events at the Gateway Parcel once detailed site plans are developed for the site. The May 2005 Administrative Draft Tuolumne River Regional Park Gateway Parcel Traffic Analysis is presented in Precise Plan Mitigation Measure Traffic-1 below.

**Precise Plan Mitigation Measure Traffic-1:** The City of Modesto shall implement the Traffic and Parking Management Plan prepared for the Gateway Parcel Precise Plan to reduce traffic impacts associated with the amphimeadow and special events. The Traffic and Parking Management Plan includes transportation measures to be put in place during special events to accommodate the unusual traffic and parking demands, and identifies off-site parking locations. The Plan includes the following elements:

- a. Advanced Information Campaign. Prior to an event, an information campaign should be used to provide detailed information on event day parking locations and routings to those locations. On the day of the event, post signage and radio announcements should be used to direct motorists to available parking supplies.
  - Develop a website with transportation and parking information
  - Provide parking information and maps at the time of ticket purchase
  - Use local media outlets to disseminate information
  - Post signage to direct vehicles to available parking
  - Inform motorists of parking locations in radio advertisements for events
  - Coach personnel directing traffic in parking policies and locations
- b. Parking Management. The Traffic and Parking Management Plan identifies off-site parking locations in the vicinity of the Gateway Parcel which provide approximately 7,400 parking spaces (see Figure 7). These off-site spaces plus the 530 on-site parking spaces would be sufficient to accommodate peak parking demands from an amphimeadow or special event.
- c. Special Event Transit Service. Special transit service could be provided from outlying areas to transport people directly to the site. This transit service would be provided in addition to the parking lot shuttles for the off-site parking locations.
- d. Traffic Management. For an amphimeadow event, all parking should be provided either on-site or in the downtown parking areas. On-site parking should be restricted to pre-pay/reserved parking only to reduce unnecessary circulation. Signs and traffic control personnel should be used to direct motorists and pedestrians to the park entrance prior to events, and should also be provided at the end of the event to direct motorists to the regional roadway system, and to direct pedestrians to on-site parking lots and shuttle stops. Figure 8 depicts recommended event traffic flows and potential locations for signs and traffic control personnel during an amphimeadow event. Locations where traffic control personnel would likely be needed include:
  - Tuolumne Boulevard/B Street between Merced Avenue and Ninth Street
  - Ninth Street between River Road and D Street

For special events with up to 15,000 attendees, the traffic management effort would be much greater and should focus on directing motorists to the off-site parking locations and providing adequate shuttle connections between the site and off-site parking areas. Changeable and portable static message signs that indicate parking locations should be used, as should pre-event campaigns. Figure 9 depicts recommended

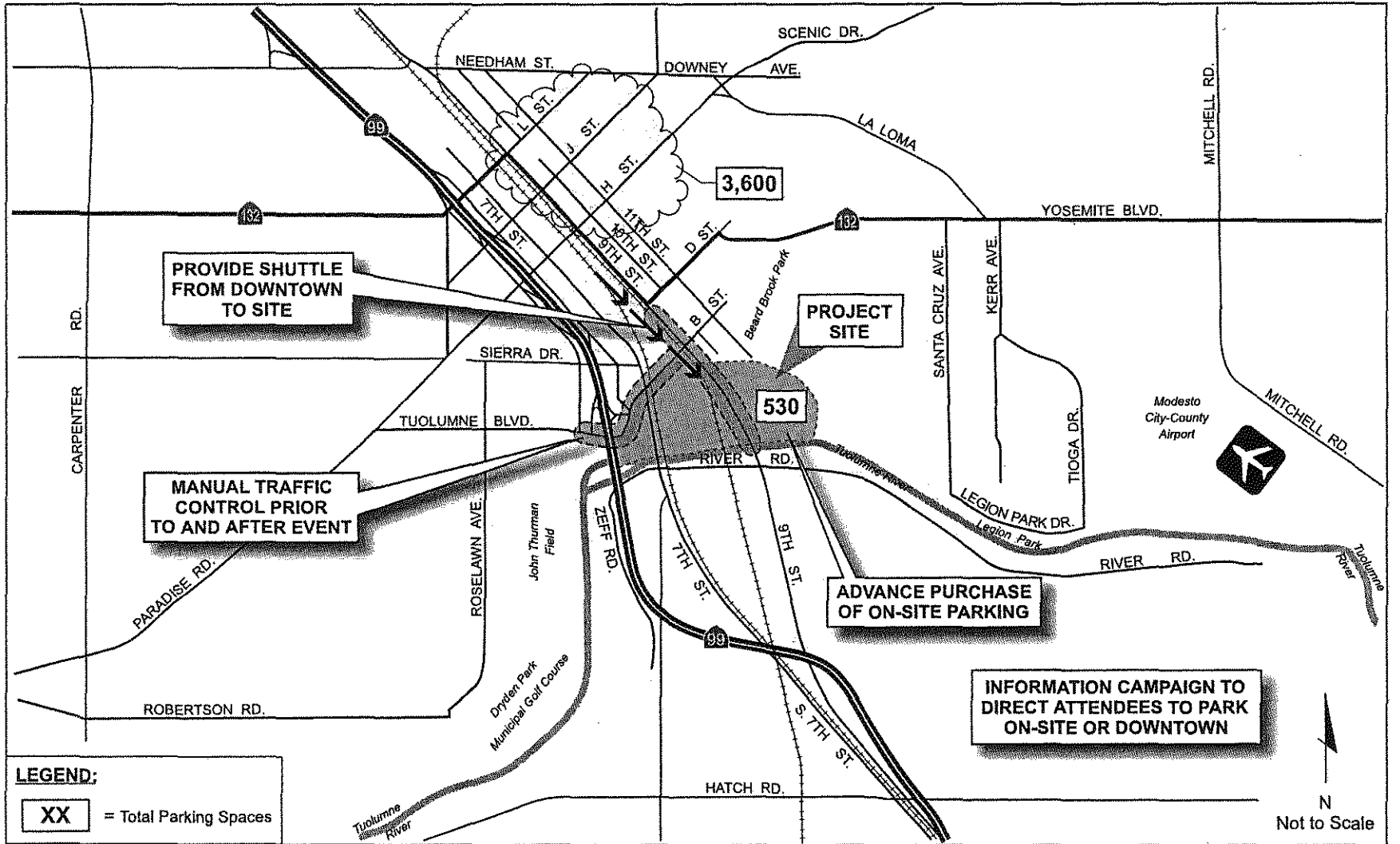
# Potential Special Event Parking Locations



Source: TRRP Gateway Parcel  
Traffic Analysis,  
May 2005  
by Fehr & Peers, Transportation  
Consultants



**Figure 7**



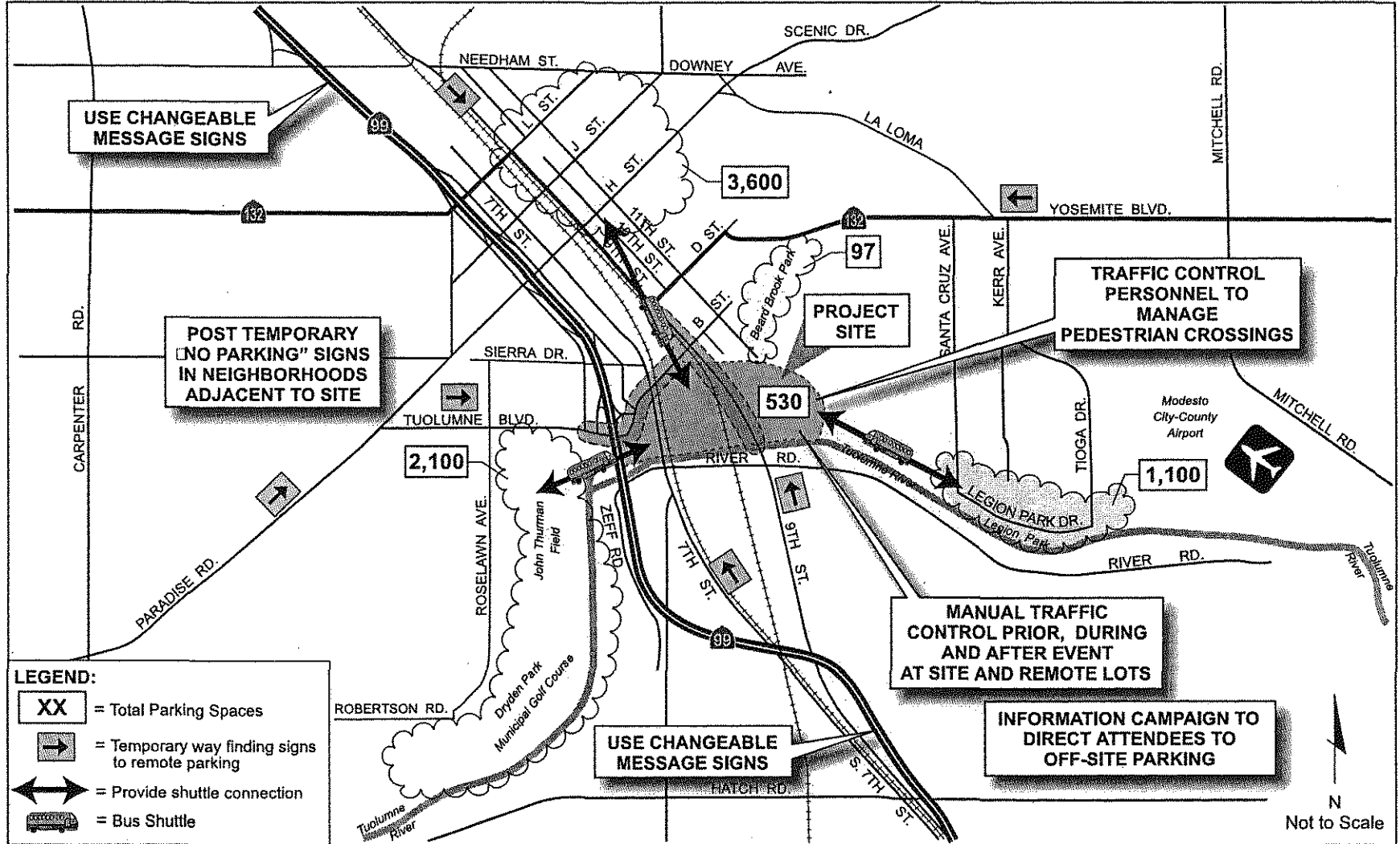
# Conceptual Traffic Management Plan for Amphimeadow Event

Source: TRRP Gateway Parcel  
 Traffic Analysis,  
 May 2005  
 by Fehr & Peers, Transportation  
 Consultants

**FP**  
**FHR & PEERS**  
 TRANSPORTATION CONSULTANTS

**Figure 8**

**EDAW**  
 DRAFT Initial Study



**Figure 9**

**FEHR & PEERS**  
 TRANSPORTATION CONSULTANTS

Source: TRRP Gateway Parcel  
 Traffic Analysis,  
 May 2005  
 by Fehr & Peers, Transportation  
 Consultants

**Conceptual Traffic Management Plan  
 for Special Event 10,000-15,000 Attendees**



event traffic flows and potential locations for signs and traffic control personnel during a large special event. Intersections where traffic control personnel would likely be needed include:

- Tuolumne Boulevard/B Street between Merced Avenue and Ninth Street
- Ninth Street between River Road and D Street
- Around off-site parking locations

Additionally, traffic control personnel should be provided on-site before, during and after an event to manage pedestrian traffic within the Gateway Parcel.

Implementation of this mitigation measure would improve traffic conditions during special events; however, for a short time immediately before and after an event, congestion would still occur. Therefore, this impact is considered significant and unavoidable. This is consistent with the findings of the Master EIR. The City of Modesto adopted a Statement of Overriding Considerations for the Master EIR which acknowledged this significant and unavoidable impact and determined that the benefits of the project, including the Gateway Parcel, outweigh the impacts.

As noted above, no large special events, amphimeadow events, or farmer's market events that would result in significant traffic impacts will be allowed in the park until the Tuolumne Boulevard extension is constructed or an alternate access to the park is provided.

### **Cumulative Impacts (Year 2025 Conditions)**

The Transportation Impact Analysis evaluated cumulative (2025) conditions, which include buildout of the City of Modesto according to the City's General Plan land use designations and planned transportation system. The City of Modesto's General Plan Master EIR and the TRRP Master Plan Master EIR were used as the basis for this analysis.

### **Typical Day Park Operations**

On a typical day, both study intersections are projected to operate at acceptable service levels in the cumulative condition during both the weekday PM and Saturday afternoon peak hours throughout the year.

The Ninth Street over the Tuolumne River is expected to operate at a deficient LOS F in the cumulative *without project* condition during the PM peak hour year-round. This finding is consistent with the TRRP Master Plan Master EIR and the City of Modesto's Master EIR and is caused by traffic increases associated with planned levels of growth in Modesto. Additional traffic from typical day operations at the Gateway Parcel would not significantly increase the traffic volume on this roadway segment. On a Saturday afternoon, the study roadway segments would continue to operate at acceptable service levels with the addition of traffic from typical day operations at the Gateway Parcel.

Therefore, the project would have a less-than-significant impact under cumulative conditions during typical day operations.

### **Amphimeadow and Special Events**

During an amphimeadow or special event, both intersections are expected to operate at acceptable service levels year-round in the cumulative condition. Proposed changes to the roadway network, including the Tuolumne Boulevard extension and signalization of the SR 99 Ramps/Tuolumne Boulevard interchange, would increase capacity through the project area.

However, during a Friday evening special event, traffic volumes would increase substantially on the study roadway segment of Ninth Street between B Street and the Tuolumne Boulevard ramps year-round.

Additionally, Ninth Street would degrade to an unacceptable service level on a Saturday afternoon special event held any time of the year. As stated in the Master EIR, the planned four-lane arterial is projected to operate at LOS F whether the Gateway Parcel is developed or not. This impact was already disclosed in the Final Master EIR for the Urban Area General Plan (see Figure 1-5 and Table 1-3).

Development of the Gateway Parcel was addressed in the Modesto General Plan Master EIR. Review of the Year 2025 traffic volume forecasts generated by the current General Plan citywide travel demand forecasting model reveals that the Gateway Parcel does not result in any change to levels of service that were not already disclosed in the Master EIR. Therefore, this is considered a less-than-significant impact.

## **Parking Impacts**

### **Typical Day Park Operations**

Based on the proposed uses and expected typical day trip generation, the Gateway Parcel's proposed 530-space parking supply would be sufficient to accommodate typical day parking demand.

### **Amphimeadow and Special Events**

Estimated parking demand was determined using trip generation rates and expected attendance at amphimeadow events and large special events. Approximately 1,210 parking spaces would be needed for an amphimeadow event and 5,300 parking spaces would be needed for a special event. Since project parking demand exceeds the 530 on-site parking spaces included in the Gateway Parcel Precise Plan, this is considered a potentially significant impact. This is consistent with the findings of the Master EIR.

Implementation of Precise Plan Mitigation Measure Traffic-1 above would address the on-site parking supply shortfall for amphimeadow and special events, and would reduce this impact to a less-than-significant level.

### **c) Air Traffic Patterns**

The Gateway Parcel is within the planning area boundary of the Modesto City-County Airport (Area 4) identified in the Stanislaus County Airport Land Use Commission Plan. The Stanislaus County Airport Land Use Commission reviewed the proposed Gateway Precise Plan and determined that the project appears to be compatible with their plan. According to Federal Aviation Regulation Part 150, the proposed land uses and structures would be compatible without restrictions. The Gateway Parcel Precise Plan would not include any features that would affect air traffic patterns. The City will consult with the Stanislaus County Airport Land Use Commission during the design phase of the project to ensure that the project features are compatible with the plan.

### **d) Hazards**

The Gateway Parcel Precise Plan includes trails, public gathering spaces, and multi-use meadows and is consistent with the TRRP Master Plan. It does not include any design features that would substantially increase traffic hazards. Land uses surrounding the Gateway Parcel include industrial uses such as warehouses, distribution centers, and food processing facilities to the north; industrial uses within the Gallo Winery complex to the east; commercial uses across Tuolumne River to the south; and residential uses across SR 99 to the west. Truck traffic uses SR 99 to access nearby commercial uses, but this is not expected to cause substantial traffic hazards at the Gateway Parcel.

Pedestrian and bicycle access to the Gateway Parcel would be provided by a series of bicycle and pedestrian paths. Ultimately, a continuous bicycle and pedestrian trail would be provided between Carpenter Road and Mitchell Road, with connections across the Tuolumne River. Pedestrian and bicycle access to the project site would also be provided via the Tuolumne Boulevard extension.

The Precise Plan includes pedestrian paths between the on-site parking areas and the Gateway Parcel. These paths are intended to direct pedestrian to designated crossing locations, such as the Ninth Street Ramp/Tuolumne Boulevard extension intersection, where highly visible pedestrian crosswalks would be provided.

Based on information provided by Stanislaus Foods, truck traffic on the Tuolumne Boulevard extension would be limited, as large trucks typically access the site using Ninth Street from the south and G Street from the north. Other site deliveries occur from Yosemite Boulevard to the east of project site. As long as Stanislaus Foods continues to direct trucks to access the site via Ninth Street and G Street, few trucks are expected on the Tuolumne Boulevard extension, and therefore the potential for traffic hazards related to pedestrian/bicycle/truck conflicts are considered to be low.

e) **Emergency Access**

The majority of roadways, paths and trails proposed in Gateway Parcel Precise Plan would provide adequate access for emergency vehicles. However, narrower paths are planned along trails located within the riparian corridor along Dry Creek and the Tuolumne River where ecological restoration is planned. These narrower, unpaved paths were designed to minimize impacts on the restoration area while providing public access. This is a potentially significant impact.

**Master EIR Mitigation Measure Fire-1:** The Modesto Fire Department and the Stanislaus County Fire Protection District shall be consulted prior to finalization of the detailed site plans to ensure adequate emergency vehicle access is provided. Emergency access requirements of the Modesto Fire Department and the Stanislaus County Fire Protection District shall be accommodated.

Implementation of Mitigation Measure Fire-1 from the Master EIR would reduce this impact to a less-than-significant level.

g) **Alternative Transportation Policies**

The Gateway Parcel Precise Plan includes development of off-street bicycle-accessible paths. These multi-modal paths, together with paths proposed in other locations as part of the overall TRRP Master Plan, would further supplement existing bicycle corridors within the Modesto Urbanized Area; would improve access between residential, commercial, and agricultural uses; and would link many of the existing and planned trail systems located in Stanislaus County. Consistent with the trip reduction strategies of the SJVAPCD's AQAP and the goals and objectives of the SCAAG's Congestion Management Program, construction of the proposed multi-modal path would provide safe, fast, and convenient options to the use of personal automobiles for commutes occurring within the Modesto Urbanized Area. Therefore, the project would not conflict with alternative transportation plans and policies.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVI. Utilities and Service Systems.</b>				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Discussion

### a-e) Wastewater Facilities

Implementation of the Gateway Parcel Precise Plan would not substantially increase demand for wastewater facilities. The three restroom facilities proposed in the Farmers' Market area, the Valley Oak Meadow, and Orchard Vista Point, would use septic systems. These facilities would comply with the wastewater treatment requirements of the Regional Water Quality Control Board. They would not result in the construction of new water or wastewater treatment facilities or the expansion of existing facilities. This is considered a less-than-significant impact.

## **Long-Term Water Supplies**

Implementation of the Gateway Parcel Precise Plan would not substantially increase demand for long-term water supplies or water distribution facilities. The majority of the vegetation proposed within the park is composed of native plants, which will require irrigation for approximately three years during initial establishment. After three years, the irrigation system in most areas of the park will be used intermittently as needed in the event of an extended draught or fire. The Valley Oak Meadow, the amphimeadow, and the overflow parking area will require intermittent irrigation more frequently to restore vegetation damaged from increased foot traffic during special events. Only the Farmers' Market area will require regular irrigation on a permanent basis. This is considered a less-than-significant impact.

## **Water Distribution Facilities**

The proposed project would have no significant effect on demand for water distribution facilities. The Gateway Parcel Precise Plan would only require minor extensions of water supply pipelines for the three restroom facilities proposed in the Farmers' Market area, the Valley Oak Meadow, and Orchard Vista Point. Water service would be provided by the City of Modesto's municipal water supply; no groundwater supplies would be used. The park would also require minor extensions of permanent water lines for irrigation. This is considered a less-than-significant impact.

## **Storm Drainage Facilities**

Development of the Gateway Parcel, including roadways, parking areas, Farmers' Market platforms, and multi-use trails, would increase the amount of impervious surfaces on the site. This would generate a relatively small increase in runoff. Drainage swales are proposed within the Farmers' Market area which would divert runoff to a vegetated swale that drains into the Tuolumne River. Runoff would be distributed to the "stormwater wetlands" and vegetated swales within the park in order to filter the water before it reaches the river. The small increase in runoff that would be generated in the park would be considered a less-than-significant impact.

## **f-g) Solid Waste Facilities**

Implementation of the Gateway Parcel Precise Plan would involve activities that would generate solid waste requiring collection, transportation, and disposal. In accordance with State-mandated recycling requirements, some solid waste reduction would be achieved through source reduction and recycling. Solid waste would be collected on site using trashcans spaced throughout the park. Standard transportation and disposal methods would be followed. Solid waste generated by park visitors is not expected to substantially affect local landfill capacity or solid waste disposal services. This is considered a less-than-significant impact.

	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 substantially 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 an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory? | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |

Authority: Public Resources Code Sections 21083 and 21087.

Reference: Public Resources Code Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.3, 21093, 21094, 21151; *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal.App.3d 1337 (1990).

**Discussion**

The Gateway Parcel Precise Plan would have environmental impacts that would adversely affect plants, wildlife and human beings. These impacts are identified in this Initial Study. Plants and wildlife would be affected by construction activities, particularly by vegetation removal and grading of the riparian terraces. However, implementation of the mitigation measures identified in this Initial Study would reduce these impacts to less-than-significant levels.

Human beings would primarily be affected by traffic, noise and air quality impacts associated with the amphimeadow and special events. As stated above, some of these impacts would be significant and unavoidable if the Precise Plan is implemented. These impacts were addressed in the TRRP Master Plan Master EIR, and the City of Modesto adopted a Statement of Overriding Considerations for the Master EIR

that acknowledged these impacts and determined that the benefits of the TRRP Master Plan (including the Gateway Parcel) outweigh the benefits.

No significant cumulative impacts resulting from the Precise Plan would be expected.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-472**

**A RESOLUTION APPROVING PRECISE PLAN FOR THE TUOLUMNE RIVER  
REGIONAL PARK GATEWAY PARCEL**

WHEREAS, on February 22, 1972, the City of Modesto entered into an agreement with the City of Ceres and the County of Stanislaus relating to the acquisition, development and operation of the Tuolumne River Regional Park (TRRP), and

WHEREAS, said agreement formed the Tuolumne River Regional Park Joint Powers Authority (JPA), and

WHEREAS, the Tuolumne River Regional Park Joint Powers Authority prepared a Tuolumne River Regional Park Master Plan to guide the restoration and development of the Tuolumne River Regional Park, and

WHEREAS, the Gateway parcel is one of six planning areas addressed in the TRRP Master Plan, and

WHEREAS, the TRRP JPA envisions the Gateway Parcel to be a high-profile public gathering place close to the commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and State Route (SR) 99, as defined in the TRRP Master Plan, and

WHEREAS, EDAW, a landscape architecture firm, has prepared the Precise Plan for the Gateway Parcel, and

WHEREAS, the Gateway Parcel Precise Plan is intended to achieve the objectives of the Master Plan and provides additional design detail needed to implement the proposed park improvements within the Gateway Parcel, and



WHEREAS, prior to adopting the Precise Plan, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, on August 10, 2005, the TRRP Citizens Advisory Committee and the TRRP Commission recommended approval of the Gateway Precise Plan, and

WHEREAS, by an agenda report dated August 29, 2005, from the Acting Public Works Director/TRRP Administrator, staff recommended to the Council approving the Gateway Precise Plan, and

WHEREAS, prior to approving the proposed Gateway Precise Plan, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the potential environmental consequences of the proposed project, and

WHEREAS, on September 13, 2005, concurrent with this resolution, the Modesto City Council adopted Resolution No. 2005-471, finding that development and construction of the Tuolumne River Regional Park Gateway Parcel is within the scope of the previously certified Tuolumne River Regional Park Master Plan Environmental Impact Report (SCH No. 200002228) ("MEIR"), that it will have no significant additional effect that was not identified in the MEIR, that all feasible mitigation measures identified in the MEIR have been incorporated into the Gateway Precise Plan and no new or additional mitigation measures are required, and that the Gateway Parcel Initial Study (EA/PR&N 2005-03) provides substantial evidence to support these findings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Tuolumne River Regional Park Gateway Precise Plan is

complete and adequate, and it hereby approves Tuolumne River Regional Park Gateway Precise Plan, 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 September 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-473**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN  
THE SCOPE OF THE VILLAGE ONE SPECIFIC PLAN PROGRAM  
ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY  
THE VILLAGE ONE SUPPLEMENTAL EIR AND THE ADDENDUM TO THE  
EIR (SCH NO. 90020181) AND THAT THE VILLAGE ONE EIR ADEQUATELY  
DESCRIBES THE PROKECT FOR PURPOSES OF CEQA: SANDERS  
NEIGHBORHOOD PARK**

WHEREAS, on September 11, 1990, the Modesto City Council adopted Resolution No. 90-757 certifying the Village One Specific Plan Program Environmental Impact Report ("Village One Program EIR") (SCH No. 90020181) as complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, on May 24, 1004, the Modesto City Council adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One (SCH No. 90020181), which Supplemental EIR amended and supplemented the previously certified Village One Program EIR, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which certified an Addendum to the Village One Program EIR as amended, for the Village One Facilities Master Plan Update – May 2003 ("VI FMP"), and

WHEREAS on September 13, 2005, the City Council received and considered the proposed Design Development Report and Master Plan contained therein for Sanders Neighborhood Park ("Project"), and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/ PR&N 2005-04, which concludes 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 the EIR (SCH No. 90020181), and

WHEREAS, this matter was considered by the City Council at a duly noticed meeting at 5:30 p.m., on September 13, 2005, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which time evidence both verbal and written was received and considered,

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/ PR&N 2005-04, entitled "Sanders Neighborhood Park", for the proposed Project, and hereby makes the following findings:

1. The proposed Sanders Neighborhood Park ("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 documents or findings are required by CEQA.
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.
5. The Written Checklist, Environmental Assessment EA/PR&N 2005-04, provides the substantial evidence to support findings 1-4 above.

A copy of said Environmental Assessment No. EA/PR&N 2005-04, entitled "Sanders Neighborhood Park", is on file and available in 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 13<sup>th</sup> day of September 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-474**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND  
MASTER PLAN INCLUDED THEREIN FOR SANDERS NEIGHBORHOOD  
PARK**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Sanders Neighborhood Park site at the northeast corner of Kodiak Drive and Litt Road, adjacent to the future Mary Ann Sanders Elementary School Site on the corner of Kodiak Drive and Fine Avenue, and

WHEREAS, Royston, Hanamoto Alley & Abey (RHAA) has provided the Design Development Report and Master Plan included therein for Sanders Neighborhood 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, on August 1, 2005, the Safety and Communities Committee recommended approval of the Sanders Neighborhood Park, and

WHEREAS, by an agenda report dated August 22, 2005, from the Acting Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Sanders Neighborhood Park Design Development Report, and a copy of said report is on file in the office of the City Clerk, and

WHEREAS, on September 13, 2005, concurrent with this resolution, the Modesto City Council adopted Resolution No. 2005-473, finding that development and construction of the Sanders Neighborhood Park is within the scope of the Village One

Specific Plan Program Environmental Impact Report as amended by the Village One Supplemental EIR (SCH #90020181) 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 that the Sanders Neighborhood Park Design Development Report is complete and adequate, and it hereby approves the Sanders Neighborhood 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 13<sup>th</sup> day of September 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-475**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR INDUSTRIAL FLOW METER CALIBRATIONS FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED ANNUAL COST OF \$19,000**

WHEREAS, the City of Modesto Water Quality Control Facility, located at 1221 Sutter Avenue, Modesto, CA. must comply with established Federal National Pollutant Discharge Elimination System (NPDES) permit requirements, and

WHEREAS, the flow meters used by the WQCF to determine compliance must meet Standard Reporting requirements of annual meter calibration and submit that verification yearly with the annual report, and

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 permits limits for pollutants that are discharge to the City sewer system, and

WHEREAS, flow meter data is required to track compliance with permitted discharge limits, and

WHEREAS, 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, samples 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 schedule for approximately six months later, and

WHEREAS, the City of Modesto WQC Plant NPDES Permit, Board Order 5-10-120, 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 third party vendor to ensure impartial meter calibrations, and

WHEREAS, in summary, the flow meter calibrations certify the accuracy of the flow data used to calculate industrial sewer billing, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for industrial flow meter calibrations and meet Modesto Municipal Code, (MMC) requirements for formal bids, 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 serves to be formally bid, and

WHEREAS, this Request for Bid (RFB) conforms to City Code, and

WHEREAS, the City Council could choose not to authorize the solicitation for bids for industrial flow meter calibrations, and

WHEREAS, the City Council has appropriated funds for industrial flow meter calibrations in account number: 6210-480-5217-0235 (SEWER OPERATIONS FUND), and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for industrial flow meter calibrations with the Public Works Department-Environmental Compliance Section, and

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 (RFB) for industrial flow meter calibrations for a total estimated annual cost of \$19,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of industrial flow meter calibrations 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 27<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-476**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF  
REPLACEMENT PATROL URBAN RIFLES AND SWAT RIFLES FOR THE  
POLICE DEPARTMENT, FOR A TOTAL ESTIMATED COST OF \$76,495**

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

WHEREAS, the use of military weapons was an excellent way to get the Urban Rifle Program started and supplement the SWAT rifle inventory, and

WHEREAS, there has always been a need for this type of weapon in police work, and

WHEREAS, it was graphically illustrated in the 1997 Los Angeles bank robbery, when it became apparent that the Police Department had been severely out armed, and

WHEREAS, the local need for, and benefit of, urban rifles was recently demonstrated in the Ceres incident earlier this year, and

WHEREAS, the department armory is currently in the process of conducting safety inspections on all of the urban rifles and SWAT rifles, and

WHEREAS, these tests are completed with gauges that test the tolerances of the weapons, and

WHEREAS, there are approximately eight safety tests, five of these tests pose minimal concerns, and

WHEREAS, should a weapon fail any of the first five tests it can be repaired by replacing relatively inexpensive parts, and

WHEREAS, the remaining three tests, Barrel Straightness, Headspacing and Erosion have an average cost of weapon repair of \$150 - \$200, and

WHEREAS, the armory is finding that approximately fifty percent of the patrol urban rifles and SWAT rifles are failing one of these three tests, and

WHEREAS, of the rifles that are passing, they are passing by a marginal amount indicating that they most likely will not pass at the next inspection, and

WHEREAS, the reason for the high rate of failure is the age of the weapons (25-35 years) and the wear from continual use, and

WHEREAS, the armory weapons experts and users agree 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 effective means in the long term, 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, replacing the weapons offers many benefits, and

WHEREAS, the first and foremost is reliable, functioning weapons that officers can depend on in time of need (this is a benefit that supercedes all others and cannot be expressed in monetary terms)

- the history of the weapons will be known and maintenance records will be kept and tracked via a computer program;
- the new weapons will have factory warranties to cover any initial problems and the armory will be working with weapons that will only need minor repairs and maintenance rather than major repairs on an almost daily basis;
- although there is a large initial expenditure, repair parts and maintenance costs will be reduced for several years
- the new weapons have shorter barrels which make them easier to maneuver in tactical situations and store in patrol vehicles
- the current stock of rifles can be converted to permanent training use with simunitions, thus saving valuable training time spent converting the weapons back and fourth, and

WHEREAS, the Police Department experts believe that if averaged out with repair costs of maintaining the current weapons there would be a cost savings over the next ten years not taking into account the reliability factor, 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 patrol urban rifles and SWAT rifles 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 replacement patrol urban rifles and SWAT rifles 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 27<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmemeber Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-477**

**A RESOLUTION APPROVING THE APPLICATION FOR FUNDING FROM  
THE RECREATIONAL TRAILS PROGRAM, FOR THE RIVERWALK TRAIL  
IN THE GATEWAY PARCEL OF THE TUOLUMNE REGIONAL RIVER PARK  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT  
APPLICATION AND CONTRACT DOCUMENTS**

WHEREAS, the Transportational Equity Act For The 21<sup>st</sup> Century provides funds to the State of California for grants to state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail purposes, 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 application(s) before submission of said application(s) 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, the applicant will enter into an agreement with the State of California for acquisition or development of the project(s);

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 the Recreational Trails Program; and
2. Certifies that said applicant has or will have available prior to commencement of any work on the project(s) included in this application, sufficient funds to operate and maintain the project(s); and
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 27<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-478**

**A RESOLUTION APPROVING THE APPLICATION FOR \$22,100 IN FUNDING FROM THE HABITAT CONSERVATION FUND UNDER THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990, FOR THE 2006 TREES FOR TOTS TREE PLANTING PROGRAM IN THE GATEWAY PARCEL OF THE TUOLUMNE REGIONAL RIVER PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION AND CONTRACT DOCUMENTS**

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

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

WHEREAS, the City desires to apply for \$22,100 in funding under the Habitat Conservation Fund for the 2006 Trees for Tots Tree Planting Program in the Gateway Parcel of the Tuolumne River Regional Park, and

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

WHEREAS, the Trees for Tots tree planting program is consistent with the Habitat Conservation Fund grant project criteria, and

WHEREAS, said application(s) contain assurances that the applicant must comply with, and

WHEREAS, the City of Modesto will enter into an agreement with the State of California for acquisition or development of the project(s);

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 the Habitat Conservation Fund Grant Program under the California Wildlife Protection Act of 1990 State grant assistance for the above project(s); and
2. Certifies that said applicant understands the assurances and certification in the application form; and
3. Certifies that said applicant has or will have available prior to commencement of any work on the project(s) included in this application, the required match; and will have sufficient funds to operate and maintain the project(s); and
4. 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(s), 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 27<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-479**

**A RESOLUTION APPROVING A 6-MONTH PROVISIONAL APPOINTMENT  
FOR DESIRREE ABSHIRE TO SENIOR COMMUNITY DEVELOPMENT  
PROGRAM SPECIALIST**

WHEREAS, Desirree Abshire was provisionally appointed as Public Information Technician on April 19, 2005, and

WHEREAS, a successful recruitment for the Public Information Technician is nearing completion, and

WHEREAS, the Parks, Recreation and Neighborhoods Department has a vacancy for the position of Senior Community Development Program Specialist, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to make a provisional appointment of Desirree Abshire to this position until a successful recruitment can be conducted, 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 new six-month appointment, since the extension of a provisional appointment is to a different position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a 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 27<sup>th</sup> day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-480**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO  
SOLICIT A REQUEST FOR PROPOSALS (RFPS) FOR ON-CALL  
ENGINEERING SERVICES FOR THE PUBLIC WORKS 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**

WHEREAS, the 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 accommodate in a timely manner, and

WHEREAS, the 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, funds are budgeted in Accounts 6210-480-5213-0235 and 6210-480-5214-0235 for these services, and

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



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

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 September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-481**

**A RESOLUTION REJECTING THE BIDS FOR THE PROJECT TITLED  
“MODESTO POLICE DEPARTMENT TRAINING FACILITY RANGE  
BUILDING” AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT  
AT A FUTURE DATE**

WHEREAS, the bids received for the “Modesto Police Department Training Facility Range Building” Project were opened at 11:00 a.m. on August 23, 2005, and later tabulated by the Acting Public Works Director for the consideration of the Council, and

WHEREAS, during the bid evaluation process staff determined that the bids for the project unreasonably exceeded the engineer’s estimate. Therefore, staff recommends the bids be rejected and staff be authorized to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the two bids received for “Modesto Police Department Training Facility Range Building,” opened in the office of the City Clerk on August 23, 2005, 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 27th day of September, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-482**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE  
AGREEMENT WITH HDR ENGINEERING, INC., ALLOWING THE  
SUBCONTRACTING OF DRAFTING WORK TO NATIONAL ENGINEERING  
SERVICES, FOR THE PROJECT TITLED "REPLACEMENT OF THE LA  
LOMA SEWAGE LIFT STATION."**

WHEREAS, on August 6, 2003, the City Council approved a Professional Services Agreement with HDR Engineering, Inc., in the amount of \$192,744, to develop engineering plans for the design of the new La Loma Lift Station, and

WHEREAS, HDR Engineering has requested that the contract be modified to allow subcontracting of drafting work to National Engineering Services, and

WHEREAS, modifying the contract will have no financial impacts to the City for the cost of design, and

WHEREAS, HDR subcontracting drafting services will expedite the completion of the design for the La Loma Lift Station,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement with HDR Engineering, Inc., allowing the subcontracting of drafting work to National Engineering Services, for the project titled "Replacement of the La Loma Sewage Lift Station."

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 27th day of September 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-483

**A RESOLUTION ACCEPTING THE WORK BY CALWATER DRILLING COMPANY, INC., FOR THE PROJECT TITLED "WATER WELL DEVELOPMENT," AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$304,000. TOTAL PROJECT COST IS \$340,950, WHICH INCLUDED CONSTRUCTION CONTINGENCY, AND CONSTRUCTION ADMINISTRATION**

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Water Well Development" has been completed by Calwater Drilling Company, Inc., in accordance with the contract agreement dated January 6, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Water Well Development" project be hereby accepted from said contractor, Calwater Drilling Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$304,000, 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 27th day of September, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

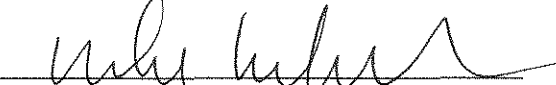
ABSENT: Councilmembers: Dunbar

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

  
MICHAEL D. MILICH, City Attorney

**RESCINDED**

MAY 23 2006

THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2006-318

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-484**

**A RESOLUTION APPROVING IMPLEMENTATION OF THE CITY'S LAST  
BEST AND FINAL OFFER TO THE MODESTO CITY EMPLOYEES'  
ASSOCIATION AND MAINTENANCE OF THE FOLLOWING PERSONNEL  
PRACTICES BY THE CITY OF MODESTO WITH RESPECT TO EMPLOYEES  
REPRESENTED BY MODESTO CITY EMPLOYEES' ASSOCIATION UNTIL  
THEY ARE CHANGED OR MODIFIED BY THE CITY IN THE MANNER  
REQUIRED BY LAW**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees' Association (MCEA) expired on July 25, 2005, and

WHEREAS, representatives of the CITY and MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, no agreement was reached, and

WHEREAS, MCEA presented its last, best and final offer to the CITY on June 25, 2005, and the CITY presented its last, best and final offer to MCEA on June 29, 2005, and,

WHEREAS, impasse was declared on June 29, 2005, and

WHEREAS, both the CITY and MCEA agreed to mediation and subsequently participated in two days of state mediation, and

WHEREAS, no mediated agreement was reached, and

WHEREAS, subsequent to mediation, the parties reached a compromise agreement which the MCEA membership failed to ratify on September 8, 2005, and

WHEREAS, the CITY's last, best and final offer provides as follows:

SECTION 1. SALARY INCREASES: The current salary schedule effective July 27, 2004, as provided in Exhibit 2 (Schedule of Salary Ranges) shall remain in full force and effect through February 20, 2006. Across-the-board salary increases shall be effective as follows:

3% effective February 21, 2006, as provided in Exhibit 3 (Schedule of Salary Ranges)

3% effective February 20, 2007, as provided in Exhibit 4 (Schedule of Salary Ranges)

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS: The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

**Total Monthly Contributions**

	<u>Current</u>	<u>7-26-05</u>	<u>7-25-06</u>
<b>Family</b>	\$516.76	\$617	\$717
<b>Single</b>	\$343.56	\$400	\$445
<b>Opt Out</b>	\$343.56	\$350	\$375

SECTION 3. TOOL ALLOWANCE: Effective with the quarter ending September 27, 2005, tool allowance increases from \$225/year to \$400/year for approximately 25 employees.

SECTION 4. EMPLOYEE ASSISTANCE PROGRAM: Effective September 27, 2005, Animal Control Officers and Identification Technicians will be included in critical incident debriefing sessions.

SECTION 5. COURT OVERTIME: Effective September 27, 2005, the minimum Court Overtime pay increases from 3 hours to 4 hours on a duty day, with "call-in" pay to the Court Liaison reduced from 2 hours to 1 hour.

SECTION 6. CAP ON CTO ACCRUALS: Effective September 27, 2005, all newly hired employees shall be paid quarterly for all accumulated CTO over 100



hours.

SECTION 7. NEGATIVE VACATION: Effective September 27, 2005, a phase-out of an employee's ability to take vacation in advance of accrual ("negative" vacation).

SECTION 8. ADDITIONAL CHANGES: Additional changes to these practices include tentative agreements reached between the CITY of Modesto and MCEA "at the table" during negotiations in the following areas:

Management Rights	Representation
Renegotiations	Maintenance of Membership
Performance Evaluation	Pay Period
Workweek	Tour of Duty
Leave Usage	Rest Periods
Standby	Court Overtime
Job Sharing	Shift Bidding
Acting Pay	Dress and Grooming
Tool Allowance	Uniform Allowance
Catastrophic Leave	Bereavement Leave
Leaves of Absence	Deferred Compensation
Employee Assistance Program	Probation
Grievance Procedure	Disciplinary Actions
Disciplinary Appeals	Time Bank
Credit Union	Commuter Bus Pass
Employee Parking	Outside Employment
Nondiscrimination	Problem Solving

Full Understanding

Provisions of Law

Classifications and Ranges

Additional changes to these practices also include the following, including specific language changes as last presented to MCEA by the CITY:

Overtime

Fatigued Employees

Call Back

Licenses and Certificates

Pay Differential

Vacation

Holidays

Sick Leave

Retiree Health

Pending Issues

And lastly, additional changes also include all mid-term changes to the Memorandum of Understanding previously agreed upon by both parties.

WHEREAS, the Council considered this matter at its meeting of September 27, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby implements its last, best and final offer made to the Modesto CITY Employees' Association on June 29, 2005 until these provisions are changed or modified by the City in the manner required by law. Once fully compiled, a copy of the document which incorporates the City's last, best and final offer and articles maintaining personnel practices, 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 27th day of September 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahl  
JEAN ZAHL, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05**  
**EFFECTIVE July 27, 2004**

**SCHEDULE - A**  
**GENERAL NON-SWORN CLASSES**  
**RANGE 3.50% HOURLY**

	BY-WEEKLY					MONTHLY									
	A	B	C	D	E	A	B	C	D	E					
0101	11.5451	12.1224	12.7285	13.3649	14.0331	923.61	969.79	1,018.28	1,069.19	1,122.65	2,008.85	2,109.29	2,214.76	2,325.49	2,441.76
0102	11.8337	12.4254	13.0467	13.6990	14.3840	946.70	994.03	1,043.74	1,095.92	1,150.72	2,059.07	2,162.02	2,270.13	2,383.63	2,502.82
0103	12.1295	12.7360	13.3728	14.0414	14.7435	970.36	1,018.88	1,069.82	1,123.31	1,179.48	2,110.53	2,216.06	2,326.86	2,443.20	2,565.37
0104	12.4327	13.0543	13.7070	14.3924	15.1120	994.62	1,044.34	1,096.56	1,151.39	1,208.96	2,163.30	2,271.44	2,385.02	2,504.27	2,629.49
0105	12.7435	13.3807	14.0497	14.7522	15.4898	1,019.48	1,070.46	1,123.98	1,180.18	1,239.18	2,217.37	2,328.25	2,444.66	2,566.89	2,695.22
0106	13.0621	13.7152	14.4010	15.1211	15.8772	1,044.97	1,097.22	1,152.08	1,209.69	1,270.18	2,272.81	2,386.45	2,505.77	2,631.08	2,762.64
0107	13.3887	14.0581	14.7610	15.4991	16.2741	1,071.10	1,124.65	1,180.88	1,239.93	1,301.93	2,329.64	2,446.11	2,568.41	2,696.85	2,831.70
0108	13.7234	14.4096	15.1301	15.8866	16.6809	1,097.87	1,152.77	1,210.41	1,270.93	1,334.47	2,387.87	2,507.27	2,632.64	2,764.27	2,902.47
0109	14.0665	14.7698	15.5083	16.2837	17.0979	1,125.32	1,181.58	1,240.66	1,302.70	1,367.83	2,447.57	2,569.94	2,698.44	2,833.37	2,975.03
0110	14.4182	15.1391	15.8961	16.6909	17.5254	1,153.46	1,211.13	1,271.69	1,335.27	1,402.03	2,508.78	2,634.21	2,765.93	2,904.21	3,049.42
0111	14.7787	15.5176	16.2935	17.1082	17.9636	1,182.30	1,241.41	1,303.48	1,368.66	1,437.09	2,571.50	2,700.07	2,835.07	2,976.84	3,125.67
0112	15.1482	15.9056	16.7009	17.5359	18.4127	1,211.86	1,272.45	1,336.07	1,402.87	1,473.02	2,635.80	2,767.58	2,905.95	3,051.24	3,203.82
0113	15.5269	16.3032	17.1184	17.9743	18.8730	1,242.15	1,304.26	1,369.47	1,437.94	1,509.84	2,701.68	2,836.77	2,978.60	3,127.52	3,283.90
0114	15.9151	16.7109	17.5464	18.4237	19.3449	1,273.21	1,336.87	1,403.71	1,473.90	1,547.59	2,769.23	2,907.69	3,053.07	3,205.73	3,366.01
0115	16.3130	17.1287	17.9851	18.8844	19.8286	1,305.04	1,370.30	1,438.81	1,510.75	1,586.29	2,838.46	2,980.40	3,129.41	3,285.88	3,450.18
0116	16.7208	17.5568	18.4346	19.3563	20.3241	1,337.66	1,404.54	1,474.77	1,548.50	1,625.93	2,909.41	3,054.87	3,207.62	3,367.99	3,536.40
0117	17.1388	17.9957	18.8955	19.8403	20.8323	1,371.10	1,439.66	1,511.64	1,587.22	1,666.58	2,982.14	3,131.26	3,287.82	3,452.20	3,624.81
0118	17.5673	18.4457	19.3680	20.3364	21.3532	1,405.38	1,475.66	1,549.44	1,626.91	1,708.26	3,056.70	3,209.56	3,370.03	3,538.53	3,715.47
0119	18.0065	18.9068	19.8521	20.8447	21.8869	1,440.52	1,512.54	1,588.17	1,667.58	1,750.95	3,133.13	3,289.77	3,454.27	3,626.99	3,808.32
0120	18.4567	19.3795	20.3485	21.3659	22.4342	1,476.54	1,550.36	1,627.88	1,709.27	1,794.74	3,211.47	3,372.03	3,540.64	3,717.66	3,903.56
0121	18.9181	19.8640	20.8572	21.9001	22.9951	1,513.45	1,589.12	1,668.58	1,752.01	1,839.61	3,291.75	3,456.34	3,629.16	3,810.62	4,001.15
0122	19.3911	20.3607	21.3787	22.4476	23.5700	1,551.29	1,628.86	1,710.30	1,795.81	1,885.60	3,374.06	3,542.77	3,719.90	3,905.89	4,101.18
0123	19.8759	20.8697	21.9132	23.0089	24.1593	1,590.07	1,669.58	1,753.06	1,840.71	1,932.74	3,458.40	3,631.34	3,812.91	4,003.54	4,203.71
0124	20.3728	21.3914	22.4610	23.5841	24.7633	1,629.82	1,711.31	1,796.88	1,886.73	1,981.06	3,544.86	3,722.10	3,908.21	4,103.64	4,308.81
0125	20.8821	21.9262	23.0225	24.1736	25.3823	1,670.57	1,754.10	1,841.80	1,933.89	2,030.58	3,633.49	3,815.17	4,005.92	4,206.21	4,416.51
0126	21.4042	22.4744	23.5981	24.7780	26.0169	1,712.34	1,797.95	1,887.85	1,982.24	2,081.35	3,724.34	3,910.54	4,106.07	4,311.37	4,526.94
0127	21.9393	23.0363	24.1881	25.3975	26.6674	1,755.14	1,842.90	1,935.05	2,031.80	2,133.39	3,817.43	4,008.31	4,208.73	4,419.17	4,640.12
0128	22.4878	23.6122	24.7928	26.0324	27.3340	1,799.02	1,888.98	1,983.42	2,082.59	2,186.72	3,912.87	4,108.53	4,313.94	4,529.63	4,756.12
0129	23.0500	24.2025	25.4126	26.6832	28.0174	1,844.00	1,936.20	2,033.01	2,134.66	2,241.39	4,010.70	4,211.24	4,421.80	4,642.89	4,875.02
0130	23.6263	24.8076	26.0480	27.3504	28.7179	1,890.10	1,984.61	2,083.84	2,188.03	2,297.43	4,110.97	4,316.53	4,532.35	4,758.97	4,996.91
0131	24.2170	25.4279	26.6993	28.0343	29.4360	1,937.36	2,034.23	2,135.94	2,242.74	2,354.88	4,213.76	4,424.45	4,645.67	4,877.96	5,121.86

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05**  
**EFFECTIVE July 27, 2004**

**SCHEDULE - A**  
**GENERAL NON-SWORN CLASSES**  
**RANGE 3.50% HOURLY**

**BY-WEEKLY**

**MONTHLY**

	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0132	24.8224	26.0635	27.3667	28.7350	30.1718	1,985.79	2,085.08	2,189.34	2,298.80	2,413.74	4,319.09	4,535.05	4,761.81	4,999.89	5,249.88
0133	25.4430	26.7152	28.0510	29.4536	30.9263	2,035.44	2,137.22	2,244.08	2,356.29	2,474.10	4,427.08	4,648.45	4,880.87	5,124.93	5,381.17
0134	26.0791	27.3831	28.7523	30.1899	31.6994	2,086.33	2,190.65	2,300.18	2,415.19	2,535.95	4,537.77	4,764.66	5,002.89	5,253.04	5,515.69
0135	26.7311	28.0677	29.4711	30.9447	32.4919	2,138.49	2,245.42	2,357.69	2,475.58	2,599.35	4,651.22	4,883.79	5,127.98	5,384.39	5,653.59
0136	27.3994	28.7694	30.2079	31.7183	33.3042	2,191.95	2,301.55	2,416.63	2,537.46	2,664.34	4,767.49	5,005.87	5,256.17	5,518.98	5,794.94
0137	28.0844	29.4886	30.9630	32.5112	34.1368	2,246.75	2,359.09	2,477.04	2,600.90	2,730.94	4,886.68	5,131.02	5,387.56	5,656.96	5,939.79
0138	28.7865	30.2258	31.7371	33.3240	34.9902	2,302.92	2,418.06	2,538.97	2,665.92	2,799.22	5,008.85	5,259.28	5,522.26	5,798.38	6,088.30
0139	29.5062	30.9815	32.5306	34.1571	35.8650	2,360.50	2,478.52	2,602.45	2,732.57	2,869.20	5,134.09	5,390.78	5,660.33	5,943.34	6,240.51
0140	30.2439	31.7561	33.3439	35.0111	36.7617	2,419.51	2,540.49	2,667.51	2,800.89	2,940.94	5,262.43	5,525.57	5,801.83	6,091.94	6,396.54
0141	31.0000	32.5500	34.1775	35.8864	37.6807	2,480.00	2,604.00	2,734.20	2,870.91	3,014.46	5,394.00	5,663.70	5,946.89	6,244.23	6,556.45
0142	31.7750	33.3638	35.0320	36.7836	38.6228	2,542.00	2,669.10	2,802.56	2,942.69	3,089.82	5,528.85	5,805.29	6,095.57	6,400.35	6,720.36
0143	32.5694	34.1979	35.9078	37.7032	39.5884	2,605.55	2,735.83	2,872.62	3,016.26	3,167.07	5,667.07	5,950.43	6,247.95	6,560.37	6,888.38
0144	33.3836	35.0528	36.8054	38.6457	40.5780	2,670.69	2,804.22	2,944.43	3,091.66	3,246.24	5,808.75	6,099.18	6,404.14	6,724.36	7,060.57
0145	34.2182	35.9291	37.7256	39.6119	41.5925	2,737.46	2,874.33	3,018.05	3,168.95	3,327.40	5,953.98	6,251.67	6,564.26	6,892.47	7,237.10
0146	35.0737	36.8274	38.6688	40.6022	42.6323	2,805.90	2,946.19	3,093.50	3,248.18	3,410.58	6,102.83	6,407.96	6,728.36	7,064.79	7,418.01
0147	35.9505	37.7480	39.6354	41.6172	43.6981	2,876.04	3,019.84	3,170.83	3,329.38	3,495.85	6,255.39	6,568.15	6,896.56	7,241.40	7,603.47
0148	36.8493	38.6918	40.6264	42.6577	44.7906	2,947.94	3,095.34	3,250.11	3,412.62	3,583.25	6,411.77	6,732.36	7,068.99	7,422.45	7,793.57
0149	37.7705	39.6590	41.6420	43.7241	45.9103	3,021.64	3,172.72	3,331.36	3,497.93	3,672.82	6,572.07	6,900.67	7,245.71	7,608.00	7,988.38
0150	38.7148	40.6505	42.6830	44.8172	47.0581	3,097.18	3,252.04	3,414.64	3,585.38	3,764.65	6,736.37	7,073.19	7,426.84	7,798.20	8,188.11

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE February 21, 2006**

SCHEDULE - A  
GENERAL NON-SWORN CLASSES  
RANGE 3.00% HOURLY

	BY-WEEKLY					MONTHLY									
	A	B	C	D	E	A	B	C	D	E					
0101	11.8915	12.4861	13.1104	13.7659	14.4542	951.32	998.89	1,048.83	1,101.27	1,156.34	2,069.12	2,172.59	2,281.21	2,395.26	2,515.04
0102	12.1888	12.7982	13.4381	14.1100	14.8155	975.10	1,023.86	1,075.05	1,128.80	1,185.24	2,120.84	2,226.90	2,338.23	2,455.14	2,577.90
0103	12.4935	13.1182	13.7741	14.4628	15.1859	999.48	1,049.46	1,101.93	1,157.02	1,214.87	2,173.87	2,282.58	2,396.70	2,516.52	2,642.34
0104	12.8058	13.4461	14.1184	14.8243	15.5655	1,024.46	1,075.69	1,129.47	1,185.94	1,245.24	2,228.20	2,339.63	2,456.60	2,579.42	2,708.40
0105	13.1259	13.7822	14.4713	15.1949	15.9546	1,050.07	1,102.58	1,157.70	1,215.59	1,276.37	2,283.90	2,398.11	2,518.00	2,643.91	2,776.10
0106	13.4540	14.1267	14.8330	15.5747	16.3534	1,076.32	1,130.14	1,186.64	1,245.98	1,308.27	2,341.00	2,458.05	2,580.94	2,710.01	2,845.49
0107	13.7904	14.4799	15.2039	15.9641	16.7623	1,103.23	1,158.39	1,216.31	1,277.13	1,340.98	2,399.53	2,519.50	2,645.47	2,777.76	2,916.63
0108	14.1352	14.8420	15.5841	16.3633	17.1815	1,130.82	1,187.36	1,246.73	1,309.06	1,374.52	2,459.53	2,582.51	2,711.64	2,847.21	2,989.58
0109	14.4886	15.2130	15.9737	16.7724	17.6110	1,159.09	1,217.04	1,277.90	1,341.79	1,408.88	2,521.02	2,647.06	2,779.43	2,918.39	3,064.31
0110	14.8508	15.5933	16.3730	17.1917	18.0513	1,188.06	1,247.46	1,309.84	1,375.34	1,444.10	2,584.03	2,713.23	2,848.90	2,991.36	3,140.92
0111	15.2221	15.9832	16.7824	17.6215	18.5026	1,217.77	1,278.66	1,342.59	1,409.72	1,480.21	2,648.65	2,781.09	2,920.13	3,066.14	3,219.46
0112	15.6027	16.3828	17.2019	18.0620	18.9651	1,248.22	1,310.62	1,376.15	1,444.96	1,517.21	2,714.88	2,850.60	2,993.13	3,142.79	3,299.93
0113	15.9928	16.7924	17.6320	18.5136	19.4393	1,279.42	1,343.39	1,410.56	1,481.09	1,555.14	2,782.74	2,921.87	3,067.97	3,221.37	3,382.43
0114	16.3926	17.2122	18.0728	18.9764	19.9252	1,311.41	1,376.98	1,445.82	1,518.11	1,594.02	2,852.32	2,994.93	3,144.66	3,301.89	3,466.99
0115	16.8024	17.6425	18.5246	19.4508	20.4233	1,344.19	1,411.40	1,481.97	1,556.06	1,633.86	2,923.61	3,069.80	3,223.28	3,384.43	3,553.65
0116	17.2225	18.0836	18.9878	19.9372	20.9341	1,377.80	1,446.69	1,519.02	1,594.98	1,674.73	2,996.72	3,146.55	3,303.87	3,469.08	3,642.54
0117	17.6531	18.5358	19.4626	20.4357	21.4575	1,412.25	1,482.86	1,557.01	1,634.86	1,716.60	3,071.64	3,225.22	3,386.50	3,555.82	3,733.61
0118	18.0944	18.9991	19.9491	20.9466	21.9939	1,447.55	1,519.93	1,595.93	1,675.73	1,759.51	3,148.42	3,305.85	3,471.15	3,644.71	3,826.93
0119	18.5468	19.4741	20.4478	21.4702	22.5437	1,483.74	1,557.93	1,635.82	1,717.62	1,803.50	3,227.13	3,388.50	3,557.91	3,735.82	3,922.61
0120	19.0105	19.9610	20.9591	22.0071	23.1075	1,520.84	1,596.88	1,676.73	1,760.57	1,848.60	3,307.83	3,473.21	3,646.89	3,829.24	4,020.71
0121	19.4858	20.4601	21.4831	22.5573	23.6852	1,558.86	1,636.81	1,718.65	1,804.58	1,894.82	3,390.52	3,560.06	3,738.06	3,924.96	4,121.23
0122	19.9729	20.9715	22.0201	23.1211	24.2772	1,597.83	1,677.72	1,761.61	1,849.69	1,942.18	3,475.28	3,649.04	3,831.50	4,023.08	4,224.24
0123	20.4722	21.4958	22.5706	23.6991	24.8841	1,637.78	1,719.66	1,805.65	1,895.93	1,990.73	3,562.17	3,740.26	3,927.29	4,123.65	4,329.84
0124	20.9840	22.0332	23.1349	24.2916	25.5062	1,678.72	1,762.66	1,850.79	1,943.33	2,040.50	3,651.22	3,833.79	4,025.47	4,226.74	4,438.09
0125	21.5086	22.5840	23.7132	24.8989	26.1438	1,720.69	1,806.72	1,897.06	1,991.91	2,091.50	3,742.50	3,929.62	4,126.11	4,332.40	4,549.01
0126	22.0463	23.1486	24.3060	25.5213	26.7974	1,763.70	1,851.89	1,944.48	2,041.70	2,143.79	3,836.05	4,027.86	4,229.24	4,440.70	4,662.74
0127	22.5975	23.7274	24.9138	26.1595	27.4675	1,807.80	1,898.19	1,993.10	2,092.76	2,197.40	3,931.97	4,128.56	4,334.99	4,551.75	4,779.35
0128	23.1624	24.3205	25.5365	26.8133	28.1540	1,852.99	1,945.64	2,042.92	2,145.06	2,252.32	4,030.25	4,231.77	4,443.35	4,665.51	4,898.80
0129	23.7415	24.9286	26.1750	27.4838	28.8580	1,899.32	1,994.29	2,094.00	2,198.70	2,308.64	4,131.02	4,337.58	4,554.45	4,782.17	5,021.29
0130	24.3350	25.5518	26.8294	28.1709	29.5794	1,946.80	2,044.14	2,146.35	2,253.67	2,366.35	4,234.29	4,446.00	4,668.31	4,901.73	5,146.81
0131	24.9434	26.1906	27.5001	28.8751	30.3189	1,995.47	2,095.25	2,200.01	2,310.01	2,425.51	4,340.15	4,557.17	4,785.02	5,024.27	5,275.48
0132	25.5670	26.8454	28.1877	29.5971	31.0770	2,045.36	2,147.63	2,255.02	2,367.77	2,486.16	4,448.66	4,671.10	4,904.67	5,149.90	5,407.40
0133	26.2062	27.5165	28.8923	30.3369	31.8537	2,096.50	2,201.32	2,311.38	2,426.95	2,548.30	4,559.89	4,787.87	5,027.25	5,278.62	5,542.55

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE February 21, 2006**

**SCHEDULE - A**  
**GENERAL NON-SWORN CLASSES**  
**RANGE 3.00% HOURLY**

	HOURLY					BY-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0134	26.8614	28.2045	29.6147	31.0954	32.6502	2,148.91	2,256.36	2,369.18	2,487.63	2,612.02	4,673.88	4,907.58	5,152.97	5,410.60	5,681.14
0135	27.5329	28.9095	30.3550	31.8728	33.4664	2,202.63	2,312.76	2,428.40	2,549.82	2,677.31	4,790.72	5,030.25	5,281.77	5,545.86	5,823.15
0136	28.2212	29.6323	31.1139	32.6696	34.3031	2,257.70	2,370.58	2,489.11	2,613.57	2,744.25	4,910.50	5,156.01	5,413.81	5,684.51	5,968.74
0137	28.9267	30.3730	31.8917	33.4863	35.1606	2,314.14	2,429.84	2,551.34	2,678.90	2,812.85	5,033.25	5,284.90	5,549.16	5,826.61	6,117.95
0138	29.6499	31.1324	32.6890	34.3235	36.0397	2,371.99	2,490.59	2,615.12	2,745.88	2,883.18	5,159.08	5,417.03	5,687.89	5,972.29	6,270.92
0139	30.3911	31.9107	33.5062	35.1815	36.9406	2,431.29	2,552.86	2,680.50	2,814.52	2,955.25	5,288.06	5,552.47	5,830.09	6,121.58	6,427.67
0140	31.1509	32.7084	34.3438	36.0610	37.8641	2,492.07	2,616.67	2,747.50	2,884.88	3,029.13	5,420.25	5,691.26	5,975.81	6,274.61	6,588.36
0141	31.9297	33.5262	35.2025	36.9626	38.8107	2,554.38	2,682.10	2,816.20	2,957.01	3,104.86	5,555.78	5,833.57	6,125.24	6,431.50	6,753.07
0142	32.7279	34.3643	36.0825	37.8866	39.7809	2,618.23	2,749.14	2,886.60	3,030.93	3,182.47	5,694.65	5,979.38	6,278.36	6,592.27	6,921.87
0143	33.5461	35.2234	36.9846	38.8338	40.7755	2,683.69	2,817.87	2,958.77	3,106.70	3,262.04	5,837.03	6,128.87	6,435.32	6,757.07	7,094.94
0144	34.3848	36.1040	37.9092	39.8047	41.7949	2,750.78	2,888.32	3,032.74	3,184.38	3,343.59	5,982.95	6,282.10	6,596.21	6,926.03	7,272.31
0145	35.2444	37.0066	38.8569	40.7997	42.8397	2,819.55	2,960.53	3,108.55	3,263.98	3,427.18	6,132.52	6,439.15	6,761.10	7,099.16	7,454.12
0146	36.1255	37.9318	39.8284	41.8198	43.9108	2,890.04	3,034.54	3,186.27	3,345.58	3,512.86	6,285.84	6,600.12	6,930.14	7,276.64	7,640.47
0147	37.0286	38.8800	40.8240	42.8652	45.0085	2,962.29	3,110.40	3,265.92	3,429.22	3,600.68	6,442.98	6,765.12	7,103.38	7,458.55	7,831.48
0148	37.9543	39.8520	41.8446	43.9368	46.1336	3,036.34	3,188.16	3,347.57	3,514.94	3,690.69	6,604.04	6,934.25	7,280.96	7,644.99	8,027.25
0149	38.9032	40.8484	42.8908	45.0353	47.2871	3,112.26	3,267.87	3,431.26	3,602.82	3,782.97	6,769.17	7,107.62	7,462.99	7,836.13	8,227.96
0150	39.8758	41.8696	43.9631	46.1613	48.4694	3,190.06	3,349.57	3,517.05	3,692.90	3,877.55	6,938.38	7,285.31	7,649.58	8,032.06	8,433.67

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE February 20, 2007**

SCHEDULE - A  
GENERAL NON-SWORN CLASSES  
RANGE 3.00% HOURLY

BY-WEEKLY

MONTHLY

	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0101	12.2482	12.8606	13.5036	14.1788	14.8877	979.86	1,028.85	1,080.29	1,134.30	1,191.02	2,131.20	2,237.75	2,349.63	2,467.10	2,590.47
0102	12.5544	13.1821	13.8412	14.5333	15.2600	1,004.35	1,054.57	1,107.30	1,162.66	1,220.80	2,184.46	2,293.69	2,408.38	2,528.79	2,655.24
0103	12.8683	13.5117	14.1873	14.8967	15.6415	1,029.46	1,080.94	1,134.98	1,191.74	1,251.32	2,239.08	2,351.04	2,468.58	2,592.03	2,721.62
0104	13.1900	13.8495	14.5420	15.2691	16.0326	1,055.20	1,107.96	1,163.36	1,221.53	1,282.61	2,295.06	2,409.81	2,530.31	2,656.83	2,789.68
0105	13.5198	14.1958	14.9056	15.6509	16.4334	1,081.58	1,135.66	1,192.45	1,252.07	1,314.67	2,352.44	2,470.06	2,593.58	2,723.25	2,859.41
0106	13.8578	14.5507	15.2782	16.0421	16.8442	1,108.62	1,164.06	1,222.26	1,283.37	1,347.54	2,411.25	2,531.83	2,658.42	2,791.33	2,930.90
0107	14.2042	14.9144	15.6601	16.4431	17.2653	1,136.34	1,193.15	1,252.81	1,315.45	1,381.22	2,471.54	2,595.10	2,724.86	2,861.10	3,004.15
0108	14.5593	15.2873	16.0517	16.8543	17.6970	1,164.74	1,222.98	1,284.14	1,348.34	1,415.76	2,533.31	2,659.98	2,793.00	2,932.64	3,079.28
0109	14.9233	15.6695	16.4530	17.2757	18.1395	1,193.86	1,253.56	1,316.24	1,382.06	1,451.16	2,596.65	2,726.49	2,862.82	3,005.98	3,156.27
0110	15.2964	16.0612	16.8643	17.7075	18.5929	1,223.71	1,284.90	1,349.14	1,416.60	1,487.43	2,661.57	2,794.66	2,934.38	3,081.11	3,235.16
0111	15.6788	16.4627	17.2858	18.1501	19.0576	1,254.30	1,317.02	1,382.86	1,452.01	1,524.61	2,728.10	2,864.52	3,007.72	3,158.12	3,316.03
0112	16.0708	16.8743	17.7180	18.6039	19.5341	1,285.66	1,349.94	1,417.44	1,488.31	1,562.73	2,796.31	2,936.12	3,082.93	3,237.07	3,398.94
0113	16.4726	17.2962	18.1610	19.0691	20.0226	1,317.81	1,383.70	1,452.88	1,525.53	1,601.81	2,866.24	3,009.55	3,160.01	3,318.03	3,483.94
0114	16.8844	17.7286	18.6150	19.5458	20.5231	1,350.75	1,418.29	1,489.20	1,563.66	1,641.85	2,937.88	3,084.78	3,239.01	3,400.96	3,571.02
0115	17.3065	18.1718	19.0804	20.0344	21.0361	1,384.52	1,453.74	1,526.43	1,602.75	1,682.89	3,011.33	3,161.88	3,319.99	3,485.98	3,660.29
0116	17.7392	18.6262	19.5575	20.5354	21.5622	1,419.14	1,490.10	1,564.60	1,642.83	1,724.98	3,086.63	3,240.97	3,403.01	3,573.16	3,751.83
0117	18.1827	19.0918	20.0464	21.0487	22.1011	1,454.62	1,527.34	1,603.71	1,683.90	1,768.09	3,163.80	3,321.96	3,488.07	3,662.48	3,845.60
0118	18.6373	19.5692	20.5477	21.5751	22.6539	1,490.98	1,565.54	1,643.82	1,726.01	1,812.31	3,242.88	3,405.05	3,575.31	3,754.07	3,941.77
0119	19.1032	20.0584	21.0613	22.1144	23.2201	1,528.26	1,604.67	1,684.90	1,769.15	1,857.61	3,323.97	3,490.16	3,664.66	3,847.90	4,040.30
0120	19.5808	20.5598	21.5878	22.6672	23.8006	1,566.46	1,644.78	1,727.02	1,813.38	1,904.05	3,407.05	3,577.40	3,756.27	3,944.10	4,141.31
0121	20.0703	21.0738	22.1275	23.2339	24.3956	1,605.62	1,685.90	1,770.20	1,858.71	1,951.65	3,492.22	3,666.83	3,850.19	4,042.69	4,244.84
0122	20.5721	21.6007	22.6807	23.8147	25.0054	1,645.77	1,728.06	1,814.46	1,905.18	2,000.43	3,579.55	3,758.53	3,946.45	4,143.77	4,350.94
0123	21.0864	22.1407	23.2477	24.4101	25.6306	1,686.91	1,771.26	1,859.82	1,952.81	2,050.45	3,669.03	3,852.49	4,045.11	4,247.36	4,459.73
0124	21.6136	22.6943	23.8290	25.0205	26.2715	1,729.09	1,815.54	1,906.32	2,001.64	2,101.72	3,760.77	3,948.80	4,146.25	4,353.57	4,571.24
0125	22.1539	23.2616	24.4247	25.6459	26.9282	1,772.31	1,860.93	1,953.98	2,051.67	2,154.26	3,854.77	4,047.52	4,249.91	4,462.38	4,685.52
0126	22.7077	23.8431	25.0353	26.2871	27.6015	1,816.62	1,907.45	2,002.82	2,102.97	2,208.12	3,951.15	4,148.70	4,356.13	4,573.96	4,802.66
0127	23.2754	24.4392	25.6612	26.9443	28.2915	1,862.03	1,955.14	2,052.90	2,155.54	2,263.32	4,049.92	4,252.43	4,465.06	4,688.30	4,922.72
0128	23.8573	25.0502	26.3027	27.6178	28.9987	1,908.58	2,004.02	2,104.22	2,209.42	2,319.90	4,151.16	4,358.74	4,576.68	4,805.49	5,045.78
0129	24.4537	25.6764	26.9602	28.3082	29.7236	1,956.30	2,054.11	2,156.82	2,264.66	2,377.89	4,254.95	4,467.69	4,691.08	4,925.64	5,171.91
0130	25.0650	26.3183	27.6342	29.0159	30.4667	2,005.20	2,105.46	2,210.74	2,321.27	2,437.34	4,361.31	4,579.38	4,808.36	5,048.76	5,301.21
0131	25.6916	26.9762	28.3250	29.7413	31.2284	2,055.33	2,158.10	2,266.00	2,379.30	2,498.27	4,470.34	4,693.87	4,928.55	5,174.98	5,433.74
0132	26.3339	27.6506	29.0331	30.4848	32.0090	2,106.71	2,212.05	2,322.65	2,438.78	2,560.72	4,582.09	4,811.21	5,051.76	5,304.35	5,569.57
0133	26.9922	28.3418	29.7589	31.2468	32.8091	2,159.38	2,267.34	2,380.71	2,499.74	2,624.73	4,696.65	4,931.46	5,178.04	5,436.93	5,708.79

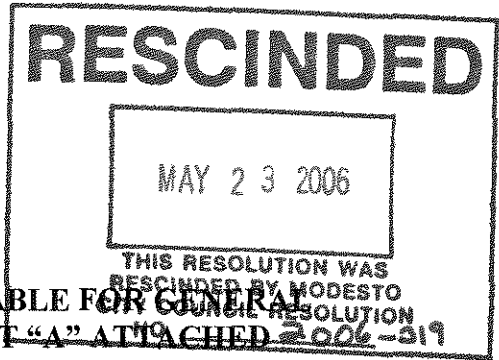


**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE February 20, 2007**

SCHEDULE - A  
GENERAL NON-SWORN CLASSES  
RANGE 3.00% HOURLY

	HOURLY					BY-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0134	27.6670	29.0504	30.5029	32.0280	33.6294	2,213.36	2,324.03	2,440.23	2,562.24	2,690.35	4,814.06	5,054.77	5,307.50	5,572.87	5,851.51
0135	28.3587	29.7766	31.2654	32.8287	34.4701	2,268.70	2,382.13	2,501.23	2,626.30	2,757.61	4,934.42	5,181.13	5,440.18	5,712.20	5,997.80
0136	29.0677	30.5211	32.0472	33.6496	35.3321	2,325.42	2,441.69	2,563.78	2,691.97	2,826.57	5,057.79	5,310.68	5,576.22	5,855.03	6,147.79
0137	29.7944	31.2841	32.8483	34.4907	36.2152	2,383.55	2,502.73	2,627.86	2,759.26	2,897.22	5,184.22	5,443.44	5,715.60	6,001.39	6,301.45
0138	30.5393	32.0663	33.6696	35.3531	37.1208	2,443.14	2,565.30	2,693.57	2,828.25	2,969.66	5,313.83	5,579.53	5,858.51	6,151.44	6,459.01
0139	31.3028	32.8679	34.5113	36.2369	38.0487	2,504.22	2,629.43	2,760.90	2,898.95	3,043.90	5,446.68	5,719.01	6,004.96	6,305.22	6,620.48
0140	32.0854	33.6897	35.3742	37.1429	39.0000	2,566.83	2,695.18	2,829.94	2,971.43	3,120.00	5,582.86	5,862.02	6,155.12	6,462.86	6,786.00
0141	32.8875	34.5319	36.2585	38.0714	39.9750	2,631.00	2,762.55	2,900.68	3,045.71	3,198.00	5,722.43	6,008.55	6,308.98	6,624.42	6,955.65
0142	33.7097	35.3952	37.1650	39.0233	40.9745	2,696.78	2,831.62	2,973.20	3,121.86	3,277.96	5,865.50	6,158.77	6,466.71	6,790.05	7,129.56
0143	34.5524	36.2800	38.0940	39.9987	41.9986	2,764.19	2,902.40	3,047.52	3,199.90	3,359.89	6,012.11	6,312.72	6,628.36	6,959.78	7,307.76
0144	35.4162	37.1870	39.0464	40.9987	43.0486	2,833.30	2,974.96	3,123.71	3,279.90	3,443.89	6,162.43	6,470.54	6,794.07	7,133.78	7,490.46
0145	36.3016	38.1167	40.0225	42.0236	44.1248	2,904.13	3,049.34	3,201.80	3,361.89	3,529.98	6,316.48	6,632.31	6,963.92	7,312.11	7,677.71
0146	37.2091	39.0696	41.0231	43.0743	45.2280	2,976.73	3,125.57	3,281.85	3,445.94	3,618.24	6,474.39	6,798.11	7,138.02	7,494.92	7,869.67
0147	38.1393	40.0463	42.0486	44.1510	46.3586	3,051.14	3,203.70	3,363.89	3,532.08	3,708.69	6,636.23	6,968.05	7,316.46	7,682.27	8,066.40
0148	39.0928	41.0474	43.0998	45.2548	47.5175	3,127.42	3,283.79	3,447.98	3,620.38	3,801.40	6,802.14	7,142.24	7,499.36	7,874.33	8,268.05
0149	40.0701	42.0736	44.1773	46.3862	48.7055	3,205.61	3,365.89	3,534.18	3,710.90	3,896.44	6,972.20	7,320.81	7,686.84	8,071.21	8,474.76
0150	41.0719	43.1255	45.2818	47.5459	49.9232	3,285.75	3,450.04	3,622.54	3,803.67	3,993.86	7,146.51	7,503.84	7,879.02	8,272.98	8,686.65

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-485**



**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL  
NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED  
HERETO EFFECTIVE SEPTEMBER 27, 2005, AND ADOPTED  
CONCURRENTLY WITH RESOLUTION NO. 2005-484 APPROVING  
MAINTENANCE OF THE FOLLOWING PERSONNEL PRACTICES BY THE  
CITY OF MODESTO WITH RESPECT TO EMPLOYEES REPRESENTED BY  
MODESTO CITY EMPLOYEES' ASSOCIATION UNTIL THEY ARE  
CHANGED OR MODIFIED BY THE CITY IN THE MANNER REQUIRED BY  
LAW AND SETTING FORTH SALARY SCHEDULES FOR GENERAL NON-  
SWORN CLASSES.**

WHEREAS, on September 27, 2005, the City Council adopted Resolution No. 2005-484 approving maintenance of the following personnel practices by the City of Modesto (CITY) with respect to employees represented by the Modesto City Employees' Association (MCEA) until they are changed or modified by the CITY in the manner required by law 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 September 27, 2005" 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 27th day of September 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL NON-SWORN CLASSES  
Effective **September 27, 2005**

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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	Animal Control Officer I 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	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 Animal Control Officer II 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 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	Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-486**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET TO TRANSFER \$818,000 FROM VARIOUS FUND RESERVES  
(\$302,660 FROM THE GENERAL FUND RESERVE AND \$515,340 FROM  
OTHER FUND RESERVES) TO VARIOUS ACCOUNTS IN DEPARTMENTS'  
OPERATING BUDGETS FOR IMPLEMENTATION OF THE CITY'S LAST,  
BEST AND FINAL OFFER TO THE MODESTO CITY EMPLOYEES'  
ASSOCIATION**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees' Association (MCEA) expired on July 25, 2005, and

WHEREAS, representatives of the CITY and MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, no agreement was reached, and

WHEREAS, the City Council desires to increase the CITY's contribution to Health, Dental and Vision benefits for employees represented by MCEA, and

WHEREAS, the City Council desires to increase the salaries of employees represented by MCEA, and

WHEREAS, the City Council desires to increase the tool allowance and court overtime pay for employees represented by MCEA and

WHEREAS, the FY 05-06 costs associated with these increases are estimated at \$818,000, effective July 26, 2005, and

WHEREAS, these increased expenditures have not yet been budgeted,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2005-06 Operating Budget is hereby amended to transfer \$818,000 from various Fund reserves (\$302,660 from the General Fund Reserve and \$515,340 from other Fund reserves) to various accounts in departments' operating budgets for implementation of the City's last, best and final offer to the Modesto City Employees' Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September 2005, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-487**

**A RESOLUTION ADOPTING THE STANISLAUS COUNTY MULTI-  
JURISDICTIONAL HAZARD MITIGATION PLAN**

WHEREAS, the Disaster Mitigation Act of 2000 added section 322 to the Stafford Act requiring state and local planning for disaster mitigation, and

WHEREAS, the Federal Emergency Management Agency (FEMA) requires all government entities to have a Local Hazard Mitigation Plan (LHMP), and

WHEREAS, Stanislaus County has taken the lead role in Stanislaus County by developing the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), and

WHEREAS, the City of Modesto LHMP is a part of the Stanislaus County MJHMP, and

WHEREAS, the LHMP will serve as a guide for decision makers as they commit resources to reducing the effects of disasters, and

WHEREAS, the City of Modesto is required to adopt the Stanislaus County MJHMP in order to receive a FEMA Pre-Disaster Mitigation (PDM) project grant or to receive post-disaster Hazard Mitigation Grant Program (HMGP) project funding for disasters declared on or after November 1, 2004, and

WHEREAS, the City of Modesto is committed to reducing the effects of natural disasters, and

WHEREAS, at its meeting of September 7, 2005, the Safety and Communities Committee supported the adoption of the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan.

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 September, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-488**

**A RESOLUTION ADOPTING THE MODESTO LOCAL HAZARD  
MITIGATION PLAN**

WHEREAS, the Disaster Mitigation Act of 2000 added section 322 to the Stafford Act requiring state and local planning for disaster mitigation, and

WHEREAS, the Federal Emergency Management Agency (FEMA) requires all government entities to have a Local Hazard Mitigation Plan (LHMP), and

WHEREAS, the LHMP addresses mitigation measures for disasters that either have or could happen in the City of Modesto, and

WHEREAS, the LHMP will serve as a guide for decision makers as they commit resources to reducing the effects of disasters, and

WHEREAS, the Local Hazard Mitigation Plan is required in order to receive a FEMA Pre-Disaster Mitigation (PDM) project grant or to receive post-disaster Hazard Mitigation Grant Program (HMGP) project funding for disasters declared on or after November 1, 2004, and

WHEREAS, the City of Modesto is committed to reducing the effects of natural disasters, and

WHEREAS, at its meeting of September 7, 2005, the Safety and Communities Committee supported the adoption of the Modesto Local Hazard Mitigation Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Modesto Local Hazard Mitigation Plan.

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 September, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-489**

**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 TO EXECUTE THE APPLICATION**

WHEREAS, the Legislature and Governor of the State of California have provided funds for the California River Parkways Grant Program, and

WHEREAS, the Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said procedures established by the State Resources Agency require a resolution certifying the approval of application by the City of Modesto City Council 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 Regional River Park Gateway Project; and
2. Certifies that the City of Modesto understands the assurances and certification in the application; and
3. Certifies that the City of Modesto will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; and

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; and
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 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 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 4th day of October, 2005 by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-490**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND  
CONTRACT FOR THE BROKER OF RECORD FOR THE CITY'S EMPLOYEE  
GROUP INSURANCE PROGRAM TO GALLAGHER BENEFITS SERVICES OF  
FRESNO, CA. AND AUTHORIZING THE RISK MANAGER TO SERVE AS  
THE COORDINATOR FOR THE VARIOUS PLANS AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE NECESSARY AGREEMENT**

WHEREAS, the City of Modesto provides its employees with various Health & Life employee benefits programs, and

WHEREAS, the "Broker of Record" will aid in plan design to contain costs and maximize benefits effectiveness as well as to evaluate and advise in selecting among coverage alternatives, and

WHEREAS, the "Broker of Record" will aid in the investigation of insurance alternatives currently available, and

WHEREAS, the City has successfully utilized a broker to assist in these and other services for a number of years, and

WHEREAS, the City's Purchasing Supervisor has conducted a formal Request for Proposal conforming to MMC Section 8-3.203, and

WHEREAS, the evaluation committee, comprised of a representative of the Employee Benefits Committee, an outside subject matter expert, Departmental staff from Finance, and Personnel as well as a Councilmember acting as an observer, and

WHEREAS, said evaluation committee rated the proposers according to evaluation criteria outlined in the proposal, and

WHEREAS, the Purchasing Supervisor compiled the committee ratings, with the highest ranked proposer being Gallagher Benefits Services of Fresno, and



WHEREAS, the evaluation committee concurred with the ranking,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes award of proposal and the execution of agreement with Gallagher Benefits Services of Fresno.

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 regular meeting of the Council of the City of Modesto held on the 4<sup>h</sup> day of October, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by CouncilmemberHawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-491**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
2500 SYLVAN AVENUE STREET IMPROVEMENTS PROJECT, ACCEPTING  
THE BID AND APPROVING A \$434,796 CONTRACT WITH GEORGE REED,  
INC., FOR THE PROJECT TITLED, "2500 SYLVAN AVENUE STREET  
IMPROVEMENTS," AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE CONTRACT**

WHEREAS, City staff has recommended approval of the plans and specifications for the 2500 Sylvan Avenue Street Improvements project, and

WHEREAS, the bids received for "2500 Sylvan Avenue Street Improvements" were opened at 11:00 a.m. on September 6, 2005, and later tabulated by the Acting Public Works Director for the consideration of the Council, and

WHEREAS, the Acting Public Works Director has recommended that the bid of \$434,796 received from George Reed, Inc., be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of George Reed, Inc., in the amount of \$434,796, and hereby awards George Reed, Inc., the contract titled "2500 Sylvan Avenue Street Improvements."

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael Milich  
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-492

**AMENDED**  
on July 7, 2009  
By Resolution 2009-299

**A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2005-282  
TO ADD SECTION 10A CLARIFYING POLICY ISSUES ON WATER  
CONNECTION FEES AND AMENDING SECTION 14, FOOTNOTE 1 TO  
CLARIFY INFLATION ADJUSTMENT FOR CONNECTION CHARGES**

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (MMC) authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627 rescinding all previous water fee resolutions, establishing a single rate base, and establishing fees for the provision of water and all fees associated with water operations and management, and

WHEREAS, on April 26, 2005, the City Council adopted Resolution No. 2005-204 amending Sections 3 and 14 of Resolution No. 2004-267 to clarify that water connection charges are actual hookup fees and are not land based, and

WHEREAS, a study of water system connection fees by Foresight Consulting has been completed, and

AMENDED

WHEREAS, the study proposes new fees in order to ensure equity across the system so that current ratepayers are not unfairly burdened with the costs of providing water to future customers, and

WHEREAS, Resolution No. 2004-627 is hereby amended solely with respect to Sections 10 and 14, and

WHEREAS, Resolution No. 2004-627 is reaffirmed in every other respect and repeated in its entirety herein for the sake of administrative convenience, and

WHEREAS, the City Council amended water connection fees on May 24, 2005, and

WHEREAS, the water connection fees were implemented on July 25, 2005, and

WHEREAS, due to the amendment, and due to the substantial increase in fees, several questions have arisen which are at a policy level, and

WHEREAS, staff feels that it is best to memorialize direction from the Council in the form of a resolution so that confusion is minimized and developers can better plan for what fees will be required, and

WHEREAS, the method of administration of the inflation adjustment for connection fees would be improved by specifying the period on which the inflation adjustment is based, and

WHEREAS, most of the policy issues deal with transitional commercial properties, the City Council does amend and restate Resolution 2005-282 to add Section 10A, below.

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

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System ("System") - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a variable component including the distribution of estimated costs of service obligations allocated to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity charges, and include all deficiency charges.

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

F. MMC - Modesto Municipal Code.

G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-35 day month commencing from date of initiation of water service, and continuing until water service termination. The Finance Director, or designee, shall have the authority to, from time to time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO THE RATEPAYER. In accordance with law, the charge for all water delivered by the System shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall consist of two components: fixed costs, such as those for billing, meter reading where applicable, and other general overhead, and variable costs, such as proportionate costs of the acquisition and transmission of water, removal of deficiencies, higher operating and maintenance costs apportioned to ratepayers with service demands requiring larger meters, and the costs of the commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs. These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.

4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.

SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.



SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION

COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost "Justification and Cost Allocation for Proposed Water System Improvements Study, accepted by Council on September 14, 2004, that 74.2% of the City's water acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED CHARGES

FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

Proposed Monthly Metered Water Rates (by meter size)					
	Year 1 1-Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
Volume-based Rate (\$/hcf)	\$0.84	\$1.01	\$1.16	\$1.22	\$1.28
Fixed Monthly Meter Charge (in addition to volume-based charges)					
5/8"-3/4" meter	\$9.01	\$10.82	\$12.44	\$13.06	\$13.71
1" meter	\$12.78	\$15.34	\$17.64	\$18.52	\$19.45
1-1/2" meter	\$22.13	\$26.55	\$30.53	\$32.06	\$33.66
2" meter	\$33.38	\$40.06	\$46.06	\$48.37	\$50.79

3" meter	\$63.43	\$76.12	\$87.53	\$91.91	\$96.51
4" meter	\$97.19	\$116.63	\$134.13	\$140.83	\$147.88
6" meter	\$190.95	\$229.14	\$263.51	\$276.68	\$290.51
8" meter	\$303.49	\$364.19	\$418.82	\$439.76	\$461.75
10" meter	\$434.84	\$521.80	\$600.07	\$630.08	\$661.58
12" meter	\$809.95	\$971.95	\$1,117.74	\$1,173.62	\$1,232.31

hcf = Hundred cubic feet

The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES. The charge for all water delivered from an unmetered service after December 31, 2004, has been cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

Proposed Monthly SFR Flat Water Rates*					
	Year 1	Year 2	Year 3	Year 4	Year 5
	1 Jan-05	1-Jul-05	1-Jul-06	1-Jul-07	1-Jul-08

0-5,000 sq. ft. lot	\$24.47	\$29.36	\$33.77	\$35.45	\$37.23
5,001-7,000 sq. ft. lot	\$27.81	\$33.37	\$38.38	\$40.30	\$42.31
7,001-11,000 sq. ft. lot	\$33.00	\$39.60	\$45.54	\$47.82	\$50.21
11,001-17,000 sq. ft. lot	\$35.03	\$42.04	\$48.34	\$50.76	\$53.30
Over 17,000 sq. ft. lot	\$41.19	\$49.42	\$56.84	\$59.68	\$62.66

SFR = Single Family Residential

\* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.

SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of buying-into the existing system, this will result in the establishment of connection charges.

## SECTION 10A

### CLARIFYING POLICY ISSUES ON WATER CONNECTION FEES

The City Council amended water connection fees on May 24, 2005 and, the water connection fees were implemented on July 25, 2005. Due to the amendment, and due to the substantial increase in fees, several questions have arisen which are at a policy level, staff feels that it is best to memorialize direction from the Council in the form of a resolution so that confusion is minimized and developers can better plan for what fees will be required. Because most of the policy issues deal with transitional commercial properties, the City Council does amend and restate Resolution 2005-282 to add Section 10A as follows:

1. **Property is changing use but staying with *same* sized water service on the *same* parcel (no change in meter size).** No additional connection fees are required if a property has an existing service on a parcel and is not changing the size of the service. The location of the service may change on the parcel and fees would be assessed for establishing a new connection to the main line, if needed, and the cost of the meter and installation.

*Example:* Property has a 1-inch service and is an office complex. Property changes to a retail complex with also a 1-inch service. No charge is made under the new connection fees, except for any fees related to a change in the location of the service.

2. **Property is changing use and requiring an upgrade to the service (larger meter required).** The water connection fees for the new service will be at the new rate for that sized service, less the amount (credit) that *may* have been paid in some way, with the credit based on \$.05 per square foot (properties prior to July 25, 2005) and if after the new fees are implemented, at the rate at that time for the existing

*Example:* Property has a 1-inch service and the new use requires a 2-inch service. A fee for the 2-inch service based on the connection fee schedule in effect at the time it is assessed, less either the amount that might have been paid, for the connection (based on the \$.05 per square foot cost), or the then-current cost for a 1-inch connection, if the connection was paid for based on the demand-based fees after July 25, 2005.

*Example 2:* Property has a 1-inch service and wants to add an additional 1-inch service; the additional 1-inch service will be based on the demand-based fees after July 25, 2005.

- 3. Property is a parcel split or a parcel reduction and fees were assessed originally only for one part of the parcel, due to partial development.** Remainder is now in for development. The new or remaining portion of the parcel pays for the new connection fees necessary to serve the remaining portion of the parcel.

*Example: A parcel has paid for a water connection based on the square footage basis but only for the portion that was developed at that time. The remaining portion has had no fees paid for water connection. This would be treated as a new service at whatever the current schedule is for the specific service, with no credit given.*

- 4. Property has paid for a water connection fee based on the \$.05 per square foot or other manner for the entire parcel. Development of a previously undeveloped portion of parcel is proposed or an additional service is requested.** A new connection fee will be assessed less the amount of a credit for the portion of the property that is now being developed or changed, based on the \$.05 per square foot. The amount of credit will be subject to the approval of the Public Works Director.

*Example: A parcel has partially developed but has paid the \$.05 square foot or other fee for the entire parcel. Additional development occurs. A credit is given only for the portion of the property where the new development is occurring.*

- 5. Payment of fees over time for larger projects.** Staff recommends that a process similar to the fee payment option used for CFF be allowed for larger projects as an incentive for Economic Development purposes. Similar criteria to the CFF fees would be used but with different time frames due to the need to collect the fees in time to implement the improvements.

This would be applicable to projects where the water connection fees exceed \$100,000 and where there is a single owner. This may be one parcel or a group of contiguous parcels. Fifty (50%) of the fees would be due at the time of the building permit issuance for not more than 50% of total permits to be issued. The remaining 50% plus interest would be due prior to issuance of the remaining permits.

The developer must execute an agreement with the City and provide adequate security to protect the City's interests in the form of a letter of credit, cash, or cash equivalent.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council

may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

#### SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE.

The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance Demographics Research Unit.

#### SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

- (a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:

Current Flat Rate for Smallest Lot Area +  
Current City Utility Tax x 4 months

- (b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on the full size of the lot unless the owners request the water to be turned off at the end of 120 days.

- (c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.
- (d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.
- (e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management services have been calculated and are hereby imposed as follows:

USER FEES	AMOUNT
Deposit	Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.
Disconnect	\$10.00
Reconnect	\$10.00
Late Payment Penalty	\$4.35
Returned Check	\$10.00
Collection Agency	\$16.50
Water Disconnection Notice (final notice mailed or doorhangers)	\$10.00
Unauthorized Reconnect (illegal on)	\$25.00
Lock Breakage/Lock Replacement	\$75.00
Disconnect Waterline at Main for Non-payment (line cut)	\$375.00

DEVELOPMENT FEES	AMOUNT
Connection Charge *1*3	



5/8" Service *2	\$1,960.00
1" Service	\$4,900.00
1.5" Service	\$9,800.00
2" Service	\$15,680.00
3" Service	\$31,360.00
4" Service	\$49,000.00
6" Service	\$98,000.00
8" Service	\$156,800.00
10" Service	\$225,400.00
12" Service	\$421,400.00
Water Main Installation Charge	\$18.00 per lineal foot of lot frontage
Water Service Installation Charge	
1" Service	\$1,108.00
1-1/2" Service	\$1,130.00
2" Service	\$1,156.00
4" Service	\$2,131.00
6" Service	\$2,131.00
8" Service	\$2,347.00
10" Service or larger	At Cost
Water Meter Fee	
1" Meter/New Service - pedestrian lid	\$115.00
1" Meter/New Service - traffic lid	\$176.00
1" Meter/Retrofit Service - pedestrian lid	\$520.00
1" Meter/Retrofit /Service - traffic lid	\$600.00
1-1/2" Meter with pedestrian lid	\$484.00
1-1/2" Meter with traffic lid	\$545.00
2" Meter with pedestrian lid	\$520.00
2" Meter with traffic lid	\$582.00
4" Meter	\$1,820.00
6" Meter	\$2,400.00
8" Meter	\$3,350.00
10" Meter or larger	At Cost
Pavement	\$439.00 for each trench
Parcel Reduction	\$37.00
Water Connection for Main extension	\$2,820.00
Reimbursement Agreement Preparation	\$175.00
Outside City Limits Agreement	\$35.00

Fire Hydrant Installation (each)	\$2,635.00
Fire Hydrant Line from Main per Lineal Foot	\$3.00
Pavement Replacement	\$439.00
Fire Main Test	\$90.00
Deposit to Install Meter on Fire Hydrant for Construction Water	\$500.00
Fire Hydrant Meter Use Deposit	\$500.00
Fire Service Installation Inspection/Test	\$90.00
Install 4" Single Check Valve	\$390.00
Install 6" Single Check Valve	\$479.00
Install 8" Single Check Valve	\$688.00
Voluntary Installation of Fire Sprinklers, Apartments	8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes, Townhouses	\$50.00

\*1 Connection charges effective 7/25/05. These charges will be reviewed and updated annually after fiscal year 2005-06 for inflation adjustments based on the engineering construction cost-index beginning July 1, 2006. The inflation adjustment for connection charges shall be equivalent to the change in the Engineering News Record Construction Cost Index for San Francisco through the month of April of each year as compared to the Engineering News Record Construction Cost Index for San Francisco through the month of April of the previous year. The Public Works Director is hereby authorized to make the above inflation adjustment administratively.

\*2 Single family residences qualify for the 5/8" connection fee only under the following conditions:

- Single story, single family residences on a lot of 4,000 square feet or less.
- Two-story single family residences on a lot of 4,000 square feet or less, provided the request for such a service is accompanied by a report from a licensed professional engineer (and approved by the Public Works Director) that certifies that the 5/8" service is adequate to meet the needs of the proposed dwelling.
- A 5/8" "service" shall not be allowed for single family dwellings of greater than 2 stories on lots less than 4,000 square feet.

\*3 Service upgrades shall be subject to the connection charge set forth in this resolution, less the amount of the connection charge set forth in this resolution for the size of the initial installation.

All Development fees shall be due and may only be paid at the time a building permit is issued. Development fees shall be calculated and collected based on the proportionate area of the parcel for which the building permit is being issued and/or the parcel is being developed and only for those connections required for actual issuance of the building permit. No other Development

fees for the remainder of the parcel may be paid until further building permits are issued. For purposes of this paragraph the Public Works Director, or designee, shall determine the proportionate area of the parcel being developed. The decision of the Public Works Director in this regard shall be final.

SECTION 15. For purposes of supporting an exemption from CEQA pursuant to Section 15273(4) of the CEQA Guidelines, the City Council finds with respect to the water rates and connection charges set forth above, that they are for the following purposes:

- (a) Meeting operating expenses;
- (b) Purchasing or leasing supplies, equipment, or materials;
- (c) Meeting financial reserve needs and requirements; and
- (d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

SECTION 16. This resolution shall become effective on and after July 25, 2005.

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 October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**RESCINDED**

MAY 23 2006

THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2006-320

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-493**

**A RESOLUTION APPROVING IMPLEMENTATION OF THE CITY'S LAST, BEST AND FINAL OFFER TO THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION AND MAINTENANCE OF PERSONNEL PRACTICES BY THE CITY OF MODESTO WITH RESPECT TO EMPLOYEES REPRESENTED BY MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION UNTIL THEY ARE CHANGED OR MODIFIED BY THE CITY IN THE MANNER REQUIRED BY LAW**

WHEREAS, the current 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, representatives of the CITY and MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, no agreement was reached, and

WHEREAS, MCMA presented its last, best and final offer to the CITY on June 14, 2005, and the CITY presented its last, best and final offer to MCMA on June 30, 2005, and,

WHEREAS, impasse was declared on July 27, 2005, and

WHEREAS, both the CITY and MCMA agreed to mediation and subsequently participated in a half day of state mediation, and

WHEREAS, no mediated agreement was reached, and

WHEREAS, the CITY's last, best and final offer provides as follows:

**SECTION 1. SALARY INCREASES:** The current salary schedule effective June 29, 2004, as provided in Exhibit "2" (Schedule of Salary Ranges) shall remain in

full force and effect through December 26, 2005. Across-the-board salary increases shall be effective as follows:

3.5% effective December 27, 2005, as provided in Exhibit "3" (Schedule of Salary Ranges), and an additional 3.5% effective December 26, 2006, as provided in Exhibit "4" (Schedule of Salary Ranges).

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS: The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows, provided that the total contribution for Single coverage shall not be less than the lowest cost HMO, Dental and Vision premium:

**Total Monthly Contributions**

	<u>Current</u>	<u>7-26-05</u>	<u>7-25-06</u>
<b>Family</b>	\$676.76	\$722	\$792
<b>Single</b>	\$377.98	\$435	\$480
<b>Opt Out</b>	\$377.98	\$385	\$390

SECTION 3. CAP ON CTO ACCRUALS: Effective October 4, 2005, all newly hired employees who are overtime-eligible shall be paid quarterly for all accumulated Compensatory Time Off (CTO) over 100 hours.

SECTION 4. RETIREMENT: no change to the current retirement formula of 2% at age 55 and the retirement re-opener in the expired MOU shall sunset.

SECTION 5. ACTING PAY/OUT-OF-CLASS PAY: the parties shall meet and confer following receipt of consultant recommendations related to policies and procedures for granting these pays.

SECTION 6. ADDITIONAL CHANGES: Additional changes to these practices include tentative agreements reached between the CITY of Modesto and MCMA "at the table" during negotiations in the following areas:

Retiree Health	Grievances
Deferred Compensation	Bereavement Leave
Certifications	Leave Usage Accrual
Management Leave	Catastrophic Leave
Probation	Renegotiations
Vacation	Non-Discrimination
Employee Parking	Meal Allowance
Medical Leaves	Time Bank
Uniform Allowance	Domestic Partners

And lastly, additional changes also include all mid-term changes to the expired Memorandum of Understanding previously agreed upon by both parties.

WHEREAS, the Council considered this matter at its meeting of October 4, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby implements its last, best and final offer made to the Modesto Confidential and Management Association on June 30, 2005 until these provisions are changed or modified by the City in the manner required by law. In order to maintain the status quo with respect to all other working conditions, all other Articles and provisions of the expired Memorandum of Understanding shall remain on full force and effect unless and until modified by the City in a manner required by law. Once fully compiled, a copy of the document which incorporates the City's last, best and final offer and articles maintaining personnel practices, 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 4th day of October, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05**  
**EFFECTIVE June 29, 2004**

**SCHEDULE - D**  
**MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)**  
**HOURLY**

3.75%

Range	1	2	3	4	5	6	7	8	9
0419	18.5786	19.0431	19.5192	20.0072	20.5074	21.0201	21.5456	22.0842	22.6363
0420	19.0431	19.5192	20.0072	20.5074	21.0201	21.5456	22.0842	22.6363	23.2022
0421	19.5192	20.0072	20.5074	21.0201	21.5456	22.0842	22.6363	23.2022	23.7823
0422	20.0072	20.5074	21.0201	21.5456	22.0842	22.6363	23.2022	23.7823	24.3769
0423	20.5074	21.0201	21.5456	22.0842	22.6363	23.2022	23.7823	24.3769	24.9863
0424	21.0201	21.5456	22.0842	22.6363	23.2022	23.7823	24.3769	24.9863	25.6110
0425	21.5456	22.0842	22.6363	23.2022	23.7823	24.3769	24.9863	25.6110	26.2513
0426	22.0842	22.6363	23.2022	23.7823	24.3769	24.9863	25.6110	26.2513	26.9076
0427	22.6363	23.2022	23.7823	24.3769	24.9863	25.6110	26.2513	26.9076	27.5803
0428	23.2022	23.7823	24.3769	24.9863	25.6110	26.2513	26.9076	27.5803	28.2698
0429	23.7823	24.3769	24.9863	25.6110	26.2513	26.9076	27.5803	28.2698	28.9765
0430	24.3769	24.9863	25.6110	26.2513	26.9076	27.5803	28.2698	28.9765	29.7009
0431	24.9863	25.6110	26.2513	26.9076	27.5803	28.2698	28.9765	29.7009	30.4434
0432	25.6110	26.2513	26.9076	27.5803	28.2698	28.9765	29.7009	30.4434	31.2045

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0419	1,486.29	1,523.45	1,561.54	1,600.58	1,640.59	1,681.61	1,723.65	1,766.74	1,810.90
0420	1,523.45	1,561.54	1,600.58	1,640.59	1,681.61	1,723.65	1,766.74	1,810.90	1,856.18
0421	1,561.54	1,600.58	1,640.59	1,681.61	1,723.65	1,766.74	1,810.90	1,856.18	1,902.58
0422	1,600.58	1,640.59	1,681.61	1,723.65	1,766.74	1,810.90	1,856.18	1,902.58	1,950.15
0423	1,640.59	1,681.61	1,723.65	1,766.74	1,810.90	1,856.18	1,902.58	1,950.15	1,998.90
0424	1,681.61	1,723.65	1,766.74	1,810.90	1,856.18	1,902.58	1,950.15	1,998.90	2,048.88
0425	1,723.65	1,766.74	1,810.90	1,856.18	1,902.58	1,950.15	1,998.90	2,048.88	2,100.10
0426	1,766.74	1,810.90	1,856.18	1,902.58	1,950.15	1,998.90	2,048.88	2,100.10	2,152.61
0427	1,810.90	1,856.18	1,902.58	1,950.15	1,998.90	2,048.88	2,100.10	2,152.61	2,206.42
0428	1,856.18	1,902.58	1,950.15	1,998.90	2,048.88	2,100.10	2,152.61	2,206.42	2,261.58
0429	1,902.58	1,950.15	1,998.90	2,048.88	2,100.10	2,152.61	2,206.42	2,261.58	2,318.12
0430	1,950.15	1,998.90	2,048.88	2,100.10	2,152.61	2,206.42	2,261.58	2,318.12	2,376.07
0431	1,998.90	2,048.88	2,100.10	2,152.61	2,206.42	2,261.58	2,318.12	2,376.07	2,435.47
0432	2,048.88	2,100.10	2,152.61	2,206.42	2,261.58	2,318.12	2,376.07	2,435.47	2,496.36

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0419	3,232.68	3,313.50	3,396.35	3,481.26	3,568.28	3,657.50	3,748.94	3,842.66	3,938.71
0420	3,313.50	3,396.35	3,481.26	3,568.28	3,657.50	3,748.94	3,842.66	3,938.71	4,037.19
0421	3,396.35	3,481.26	3,568.28	3,657.50	3,748.94	3,842.66	3,938.71	4,037.19	4,138.11
0422	3,481.26	3,568.28	3,657.50	3,748.94	3,842.66	3,938.71	4,037.19	4,138.11	4,241.58
0423	3,568.28	3,657.50	3,748.94	3,842.66	3,938.71	4,037.19	4,138.11	4,241.58	4,347.61
0424	3,657.50	3,748.94	3,842.66	3,938.71	4,037.19	4,138.11	4,241.58	4,347.61	4,456.31
0425	3,748.94	3,842.66	3,938.71	4,037.19	4,138.11	4,241.58	4,347.61	4,456.31	4,567.72
0426	3,842.66	3,938.71	4,037.19	4,138.11	4,241.58	4,347.61	4,456.31	4,567.72	4,681.93
0427	3,938.71	4,037.19	4,138.11	4,241.58	4,347.61	4,456.31	4,567.72	4,681.93	4,798.96
0428	4,037.19	4,138.11	4,241.58	4,347.61	4,456.31	4,567.72	4,681.93	4,798.96	4,918.94
0429	4,138.11	4,241.58	4,347.61	4,456.31	4,567.72	4,681.93	4,798.96	4,918.94	5,041.91
0430	4,241.58	4,347.61	4,456.31	4,567.72	4,681.93	4,798.96	4,918.94	5,041.91	5,167.95
0431	4,347.61	4,456.31	4,567.72	4,681.93	4,798.96	4,918.94	5,041.91	5,167.95	5,297.15
0432	4,456.31	4,567.72	4,681.93	4,798.96	4,918.94	5,041.91	5,167.95	5,297.15	5,429.58

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05**  
**EFFECTIVE June 29, 2004**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
**HOURLY**

3.75%

Range	1	2	3	4	5	6	7	8	9
0433	26.2513	26.9076	27.5803	28.2698	28.9765	29.7009	30.4434	31.2045	31.9846
0434	26.9076	27.5803	28.2698	28.9765	29.7009	30.4434	31.2045	31.9846	32.7842
0435	27.5803	28.2698	28.9765	29.7009	30.4434	31.2045	31.9846	32.7842	33.6038
0436	28.2698	28.9765	29.7009	30.4434	31.2045	31.9846	32.7842	33.6038	34.4439
0437	28.9765	29.7009	30.4434	31.2045	31.9846	32.7842	33.6038	34.4439	35.3050
0438	29.7009	30.4434	31.2045	31.9846	32.7842	33.6038	34.4439	35.3050	36.1876
0439	30.4434	31.2045	31.9846	32.7842	33.6038	34.4439	35.3050	36.1876	37.0923
0440	31.2045	31.9846	32.7842	33.6038	34.4439	35.3050	36.1876	37.0923	38.0196
0441	31.9846	32.7842	33.6038	34.4439	35.3050	36.1876	37.0923	38.0196	38.9701
0442	32.7842	33.6038	34.4439	35.3050	36.1876	37.0923	38.0196	38.9701	39.9444
0443	33.6038	34.4439	35.3050	36.1876	37.0923	38.0196	38.9701	39.9444	40.9430
0444	34.4439	35.3050	36.1876	37.0923	38.0196	38.9701	39.9444	40.9430	41.9666
0445	35.3050	36.1876	37.0923	38.0196	38.9701	39.9444	40.9430	41.9666	43.0158
0446	36.1876	37.0923	38.0196	38.9701	39.9444	40.9430	41.9666	43.0158	44.0912

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0433	2,100.10	2,152.61	2,206.42	2,261.58	2,318.12	2,376.07	2,435.47	2,496.36	2,558.77
0434	2,152.61	2,206.42	2,261.58	2,318.12	2,376.07	2,435.47	2,496.36	2,558.77	2,622.74
0435	2,206.42	2,261.58	2,318.12	2,376.07	2,435.47	2,496.36	2,558.77	2,622.74	2,688.30
0436	2,261.58	2,318.12	2,376.07	2,435.47	2,496.36	2,558.77	2,622.74	2,688.30	2,755.51
0437	2,318.12	2,376.07	2,435.47	2,496.36	2,558.77	2,622.74	2,688.30	2,755.51	2,824.40
0438	2,376.07	2,435.47	2,496.36	2,558.77	2,622.74	2,688.30	2,755.51	2,824.40	2,895.01
0439	2,435.47	2,496.36	2,558.77	2,622.74	2,688.30	2,755.51	2,824.40	2,895.01	2,967.38
0440	2,496.36	2,558.77	2,622.74	2,688.30	2,755.51	2,824.40	2,895.01	2,967.38	3,041.57
0441	2,558.77	2,622.74	2,688.30	2,755.51	2,824.40	2,895.01	2,967.38	3,041.57	3,117.61
0442	2,622.74	2,688.30	2,755.51	2,824.40	2,895.01	2,967.38	3,041.57	3,117.61	3,195.55
0443	2,688.30	2,755.51	2,824.40	2,895.01	2,967.38	3,041.57	3,117.61	3,195.55	3,275.44
0444	2,755.51	2,824.40	2,895.01	2,967.38	3,041.57	3,117.61	3,195.55	3,275.44	3,357.33
0445	2,824.40	2,895.01	2,967.38	3,041.57	3,117.61	3,195.55	3,275.44	3,357.33	3,441.26
0446	2,895.01	2,967.38	3,041.57	3,117.61	3,195.55	3,275.44	3,357.33	3,441.26	3,527.30

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0433	4,567.72	4,681.93	4,798.96	4,918.94	5,041.91	5,167.95	5,297.15	5,429.58	5,565.32
0434	4,681.93	4,798.96	4,918.94	5,041.91	5,167.95	5,297.15	5,429.58	5,565.32	5,704.46
0435	4,798.96	4,918.94	5,041.91	5,167.95	5,297.15	5,429.58	5,565.32	5,704.46	5,847.05
0436	4,918.94	5,041.91	5,167.95	5,297.15	5,429.58	5,565.32	5,704.46	5,847.05	5,993.23
0437	5,041.91	5,167.95	5,297.15	5,429.58	5,565.32	5,704.46	5,847.05	5,993.23	6,143.07
0438	5,167.95	5,297.15	5,429.58	5,565.32	5,704.46	5,847.05	5,993.23	6,143.07	6,296.65
0439	5,297.15	5,429.58	5,565.32	5,704.46	5,847.05	5,993.23	6,143.07	6,296.65	6,454.05
0440	5,429.58	5,565.32	5,704.46	5,847.05	5,993.23	6,143.07	6,296.65	6,454.05	6,615.41
0441	5,565.32	5,704.46	5,847.05	5,993.23	6,143.07	6,296.65	6,454.05	6,615.41	6,780.80
0442	5,704.46	5,847.05	5,993.23	6,143.07	6,296.65	6,454.05	6,615.41	6,780.80	6,950.32
0443	5,847.05	5,993.23	6,143.07	6,296.65	6,454.05	6,615.41	6,780.80	6,950.32	7,124.08
0444	5,993.23	6,143.07	6,296.65	6,454.05	6,615.41	6,780.80	6,950.32	7,124.08	7,302.19
0445	6,143.07	6,296.65	6,454.05	6,615.41	6,780.80	6,950.32	7,124.08	7,302.19	7,484.74
0446	6,296.65	6,454.05	6,615.41	6,780.80	6,950.32	7,124.08	7,302.19	7,484.74	7,671.88

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05**  
**EFFECTIVE June 29, 2004**

**SCHEDULE - D**  
**MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)**  
**HOURLY**

3.75%

Range	1	2	3	4	5	6	7	8	9
0447	37.0923	38.0196	38.9701	39.9444	40.9430	41.9666	43.0158	44.0912	45.1935
0448	38.0196	38.9701	39.9444	40.9430	41.9666	43.0158	44.0912	45.1935	46.3233
0449	38.9701	39.9444	40.9430	41.9666	43.0158	44.0912	45.1935	46.3233	47.4814
0450	39.9444	40.9430	41.9666	43.0158	44.0912	45.1935	46.3233	47.4814	48.6684
0451	40.9430	41.9666	43.0158	44.0912	45.1935	46.3233	47.4814	48.6684	49.8851
0452	41.9666	43.0158	44.0912	45.1935	46.3233	47.4814	48.6684	49.8851	51.1322
0453	43.0158	44.0912	45.1935	46.3233	47.4814	48.6684	49.8851	51.1322	52.4105
0454	44.0912	45.1935	46.3233	47.4814	48.6684	49.8851	51.1322	52.4105	53.7208
0455	45.1935	46.3233	47.4814	48.6684	49.8851	51.1322	52.4105	53.7208	55.0638
0456	46.3233	47.4814	48.6684	49.8851	51.1322	52.4105	53.7208	55.0638	56.4404
0457	47.4814	48.6684	49.8851	51.1322	52.4105	53.7208	55.0638	56.4404	57.8514
0458	48.6684	49.8851	51.1322	52.4105	53.7208	55.0638	56.4404	57.8514	59.2977
0459	49.8851	51.1322	52.4105	53.7208	55.0638	56.4404	57.8514	59.2977	60.7801
0460	51.1322	52.4105	53.7208	55.0638	56.4404	57.8514	59.2977	60.7801	62.2996

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0447	2,967.38	3,041.57	3,117.61	3,195.55	3,275.44	3,357.33	3,441.26	3,527.30	3,615.48
0448	3,041.57	3,117.61	3,195.55	3,275.44	3,357.33	3,441.26	3,527.30	3,615.48	3,705.86
0449	3,117.61	3,195.55	3,275.44	3,357.33	3,441.26	3,527.30	3,615.48	3,705.86	3,798.51
0450	3,195.55	3,275.44	3,357.33	3,441.26	3,527.30	3,615.48	3,705.86	3,798.51	3,893.47
0451	3,275.44	3,357.33	3,441.26	3,527.30	3,615.48	3,705.86	3,798.51	3,893.47	3,990.81
0452	3,357.33	3,441.26	3,527.30	3,615.48	3,705.86	3,798.51	3,893.47	3,990.81	4,090.58
0453	3,441.26	3,527.30	3,615.48	3,705.86	3,798.51	3,893.47	3,990.81	4,090.58	4,192.84
0454	3,527.30	3,615.48	3,705.86	3,798.51	3,893.47	3,990.81	4,090.58	4,192.84	4,297.66
0455	3,615.48	3,705.86	3,798.51	3,893.47	3,990.81	4,090.58	4,192.84	4,297.66	4,405.10
0456	3,705.86	3,798.51	3,893.47	3,990.81	4,090.58	4,192.84	4,297.66	4,405.10	4,515.23
0457	3,798.51	3,893.47	3,990.81	4,090.58	4,192.84	4,297.66	4,405.10	4,515.23	4,628.11
0458	3,893.47	3,990.81	4,090.58	4,192.84	4,297.66	4,405.10	4,515.23	4,628.11	4,743.82
0459	3,990.81	4,090.58	4,192.84	4,297.66	4,405.10	4,515.23	4,628.11	4,743.82	4,862.41
0460	4,090.58	4,192.84	4,297.66	4,405.10	4,515.23	4,628.11	4,743.82	4,862.41	4,983.97

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0447	6,454.05	6,615.41	6,780.80	6,950.32	7,124.08	7,302.19	7,484.74	7,671.88	7,863.67
0448	6,615.41	6,780.80	6,950.32	7,124.08	7,302.19	7,484.74	7,671.88	7,863.67	8,060.25
0449	6,780.80	6,950.32	7,124.08	7,302.19	7,484.74	7,671.88	7,863.67	8,060.25	8,261.76
0450	6,950.32	7,124.08	7,302.19	7,484.74	7,671.88	7,863.67	8,060.25	8,261.76	8,468.30
0451	7,124.08	7,302.19	7,484.74	7,671.88	7,863.67	8,060.25	8,261.76	8,468.30	8,680.01
0452	7,302.19	7,484.74	7,671.88	7,863.67	8,060.25	8,261.76	8,468.30	8,680.01	8,897.01
0453	7,484.74	7,671.88	7,863.67	8,060.25	8,261.76	8,468.30	8,680.01	8,897.01	9,119.43
0454	7,671.88	7,863.67	8,060.25	8,261.76	8,468.30	8,680.01	8,897.01	9,119.43	9,347.41
0455	7,863.67	8,060.25	8,261.76	8,468.30	8,680.01	8,897.01	9,119.43	9,347.41	9,581.09
0456	8,060.25	8,261.76	8,468.30	8,680.01	8,897.01	9,119.43	9,347.41	9,581.09	9,820.63
0457	8,261.76	8,468.30	8,680.01	8,897.01	9,119.43	9,347.41	9,581.09	9,820.63	10,066.14
0458	8,468.30	8,680.01	8,897.01	9,119.43	9,347.41	9,581.09	9,820.63	10,066.14	10,317.81
0459	8,680.01	8,897.01	9,119.43	9,347.41	9,581.09	9,820.63	10,066.14	10,317.81	10,575.74
0460	8,897.01	9,119.43	9,347.41	9,581.09	9,820.63	10,066.14	10,317.81	10,575.74	10,840.13

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0403	12.9531	13.2769	13.6088	13.9490	14.2977	14.6551	15.0215	15.3970	15.7819
0404	13.2769	13.6088	13.9490	14.2977	14.6551	15.0215	15.3970	15.7819	16.1764
0405	13.6088	13.9490	14.2977	14.6551	15.0215	15.3970	15.7819	16.1764	16.5808
0406	13.9490	14.2977	14.6551	15.0215	15.3970	15.7819	16.1764	16.5808	16.9953
0407	14.2977	14.6551	15.0215	15.3970	15.7819	16.1764	16.5808	16.9953	17.4202
0408	14.6551	15.0215	15.3970	15.7819	16.1764	16.5808	16.9953	17.4202	17.8557
0409	15.0215	15.3970	15.7819	16.1764	16.5808	16.9953	17.4202	17.8557	18.3021
0410	15.3970	15.7819	16.1764	16.5808	16.9953	17.4202	17.8557	18.3021	18.7597
0411	15.7819	16.1764	16.5808	16.9953	17.4202	17.8557	18.3021	18.7597	19.2287
0412	16.1764	16.5808	16.9953	17.4202	17.8557	18.3021	18.7597	19.2287	19.7094
0413	16.5808	16.9953	17.4202	17.8557	18.3021	18.7597	19.2287	19.7094	20.2021
0414	16.9953	17.4202	17.8557	18.3021	18.7597	19.2287	19.7094	20.2021	20.7072
0415	17.4202	17.8557	18.3021	18.7597	19.2287	19.7094	20.2021	20.7072	21.2249
0416	17.8557	18.3021	18.7597	19.2287	19.7094	20.2021	20.7072	21.2249	21.7555
0417	18.3021	18.7597	19.2287	19.7094	20.2021	20.7072	21.2249	21.7555	22.2994
0418	18.7597	19.2287	19.7094	20.2021	20.7072	21.2249	21.7555	22.2994	22.8569

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0403	1,036.25	1,062.15	1,088.70	1,115.92	1,143.82	1,172.41	1,201.72	1,231.76	1,262.55
0404	1,062.15	1,088.70	1,115.92	1,143.82	1,172.41	1,201.72	1,231.76	1,262.55	1,294.11
0405	1,088.70	1,115.92	1,143.82	1,172.41	1,201.72	1,231.76	1,262.55	1,294.11	1,326.46
0406	1,115.92	1,143.82	1,172.41	1,201.72	1,231.76	1,262.55	1,294.11	1,326.46	1,359.62
0407	1,143.82	1,172.41	1,201.72	1,231.76	1,262.55	1,294.11	1,326.46	1,359.62	1,393.62
0408	1,172.41	1,201.72	1,231.76	1,262.55	1,294.11	1,326.46	1,359.62	1,393.62	1,428.46
0409	1,201.72	1,231.76	1,262.55	1,294.11	1,326.46	1,359.62	1,393.62	1,428.46	1,464.17
0410	1,231.76	1,262.55	1,294.11	1,326.46	1,359.62	1,393.62	1,428.46	1,464.17	1,500.78
0411	1,262.55	1,294.11	1,326.46	1,359.62	1,393.62	1,428.46	1,464.17	1,500.78	1,538.30
0412	1,294.11	1,326.46	1,359.62	1,393.62	1,428.46	1,464.17	1,500.78	1,538.30	1,576.75
0413	1,326.46	1,359.62	1,393.62	1,428.46	1,464.17	1,500.78	1,538.30	1,576.75	1,616.17
0414	1,359.62	1,393.62	1,428.46	1,464.17	1,500.78	1,538.30	1,576.75	1,616.17	1,656.58
0415	1,393.62	1,428.46	1,464.17	1,500.78	1,538.30	1,576.75	1,616.17	1,656.58	1,697.99
0416	1,428.46	1,464.17	1,500.78	1,538.30	1,576.75	1,616.17	1,656.58	1,697.99	1,740.44
0417	1,464.17	1,500.78	1,538.30	1,576.75	1,616.17	1,656.58	1,697.99	1,740.44	1,783.95
0418	1,500.78	1,538.30	1,576.75	1,616.17	1,656.58	1,697.99	1,740.44	1,783.95	1,828.55

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0403	2,253.84	2,310.18	2,367.92	2,427.13	2,487.81	2,549.99	2,613.74	2,679.08	2,746.05
0404	2,310.18	2,367.92	2,427.13	2,487.81	2,549.99	2,613.74	2,679.08	2,746.05	2,814.69
0405	2,367.92	2,427.13	2,487.81	2,549.99	2,613.74	2,679.08	2,746.05	2,814.69	2,885.05
0406	2,427.13	2,487.81	2,549.99	2,613.74	2,679.08	2,746.05	2,814.69	2,885.05	2,957.17
0407	2,487.81	2,549.99	2,613.74	2,679.08	2,746.05	2,814.69	2,885.05	2,957.17	3,031.12
0408	2,549.99	2,613.74	2,679.08	2,746.05	2,814.69	2,885.05	2,957.17	3,031.12	3,106.90
0409	2,613.74	2,679.08	2,746.05	2,814.69	2,885.05	2,957.17	3,031.12	3,106.90	3,184.57
0410	2,679.08	2,746.05	2,814.69	2,885.05	2,957.17	3,031.12	3,106.90	3,184.57	3,264.20
0411	2,746.05	2,814.69	2,885.05	2,957.17	3,031.12	3,106.90	3,184.57	3,264.20	3,345.80
0412	2,814.69	2,885.05	2,957.17	3,031.12	3,106.90	3,184.57	3,264.20	3,345.80	3,429.43
0413	2,885.05	2,957.17	3,031.12	3,106.90	3,184.57	3,264.20	3,345.80	3,429.43	3,515.17
0414	2,957.17	3,031.12	3,106.90	3,184.57	3,264.20	3,345.80	3,429.43	3,515.17	3,603.06
0415	3,031.12	3,106.90	3,184.57	3,264.20	3,345.80	3,429.43	3,515.17	3,603.06	3,693.13
0416	3,106.90	3,184.57	3,264.20	3,345.80	3,429.43	3,515.17	3,603.06	3,693.13	3,785.46
0417	3,184.57	3,264.20	3,345.80	3,429.43	3,515.17	3,603.06	3,693.13	3,785.46	3,880.09
0418	3,264.20	3,345.80	3,429.43	3,515.17	3,603.06	3,693.13	3,785.46	3,880.09	3,977.10

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0419	19.2287	19.7094	20.2021	20.7072	21.2249	21.7555	22.2994	22.8569	23.4283
0420	19.7094	20.2021	20.7072	21.2249	21.7555	22.2994	22.8569	23.4283	24.0140
0421	20.2021	20.7072	21.2249	21.7555	22.2994	22.8569	23.4283	24.0140	24.6144
0422	20.7072	21.2249	21.7555	22.2994	22.8569	23.4283	24.0140	24.6144	25.2298
0423	21.2249	21.7555	22.2994	22.8569	23.4283	24.0140	24.6144	25.2298	25.8605
0424	21.7555	22.2994	22.8569	23.4283	24.0140	24.6144	25.2298	25.8605	26.5070
0425	22.2994	22.8569	23.4283	24.0140	24.6144	25.2298	25.8605	26.5070	27.1697
0426	22.8569	23.4283	24.0140	24.6144	25.2298	25.8605	26.5070	27.1697	27.8489
0427	23.4283	24.0140	24.6144	25.2298	25.8605	26.5070	27.1697	27.8489	28.5451
0428	24.0140	24.6144	25.2298	25.8605	26.5070	27.1697	27.8489	28.5451	29.2587
0429	24.6144	25.2298	25.8605	26.5070	27.1697	27.8489	28.5451	29.2587	29.9902
0430	25.2298	25.8605	26.5070	27.1697	27.8489	28.5451	29.2587	29.9902	30.7400
0431	25.8605	26.5070	27.1697	27.8489	28.5451	29.2587	29.9902	30.7400	31.5085
0432	26.5070	27.1697	27.8489	28.5451	29.2587	29.9902	30.7400	31.5085	32.2962

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0419	1,538.30	1,576.75	1,616.17	1,656.58	1,697.99	1,740.44	1,783.95	1,828.55	1,874.26
0420	1,576.75	1,616.17	1,656.58	1,697.99	1,740.44	1,783.95	1,828.55	1,874.26	1,921.12
0421	1,616.17	1,656.58	1,697.99	1,740.44	1,783.95	1,828.55	1,874.26	1,921.12	1,969.15
0422	1,656.58	1,697.99	1,740.44	1,783.95	1,828.55	1,874.26	1,921.12	1,969.15	2,018.38
0423	1,697.99	1,740.44	1,783.95	1,828.55	1,874.26	1,921.12	1,969.15	2,018.38	2,068.84
0424	1,740.44	1,783.95	1,828.55	1,874.26	1,921.12	1,969.15	2,018.38	2,068.84	2,120.56
0425	1,783.95	1,828.55	1,874.26	1,921.12	1,969.15	2,018.38	2,068.84	2,120.56	2,173.58
0426	1,828.55	1,874.26	1,921.12	1,969.15	2,018.38	2,068.84	2,120.56	2,173.58	2,227.91
0427	1,874.26	1,921.12	1,969.15	2,018.38	2,068.84	2,120.56	2,173.58	2,227.91	2,283.61
0428	1,921.12	1,969.15	2,018.38	2,068.84	2,120.56	2,173.58	2,227.91	2,283.61	2,340.70
0429	1,969.15	2,018.38	2,068.84	2,120.56	2,173.58	2,227.91	2,283.61	2,340.70	2,399.22
0430	2,018.38	2,068.84	2,120.56	2,173.58	2,227.91	2,283.61	2,340.70	2,399.22	2,459.20
0431	2,068.84	2,120.56	2,173.58	2,227.91	2,283.61	2,340.70	2,399.22	2,459.20	2,520.68
0432	2,120.56	2,173.58	2,227.91	2,283.61	2,340.70	2,399.22	2,459.20	2,520.68	2,583.70

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0419	3,345.80	3,429.43	3,515.17	3,603.06	3,693.13	3,785.46	3,880.09	3,977.10	4,076.52
0420	3,429.43	3,515.17	3,603.06	3,693.13	3,785.46	3,880.09	3,977.10	4,076.52	4,178.44
0421	3,515.17	3,603.06	3,693.13	3,785.46	3,880.09	3,977.10	4,076.52	4,178.44	4,282.90
0422	3,603.06	3,693.13	3,785.46	3,880.09	3,977.10	4,076.52	4,178.44	4,282.90	4,389.98
0423	3,693.13	3,785.46	3,880.09	3,977.10	4,076.52	4,178.44	4,282.90	4,389.98	4,499.73
0424	3,785.46	3,880.09	3,977.10	4,076.52	4,178.44	4,282.90	4,389.98	4,499.73	4,612.22
0425	3,880.09	3,977.10	4,076.52	4,178.44	4,282.90	4,389.98	4,499.73	4,612.22	4,727.54
0426	3,977.10	4,076.52	4,178.44	4,282.90	4,389.98	4,499.73	4,612.22	4,727.54	4,845.70
0427	4,076.52	4,178.44	4,282.90	4,389.98	4,499.73	4,612.22	4,727.54	4,845.70	4,966.85
0428	4,178.44	4,282.90	4,389.98	4,499.73	4,612.22	4,727.54	4,845.70	4,966.85	5,091.02
0429	4,282.90	4,389.98	4,499.73	4,612.22	4,727.54	4,845.70	4,966.85	5,091.02	5,218.30
0430	4,389.98	4,499.73	4,612.22	4,727.54	4,845.70	4,966.85	5,091.02	5,218.30	5,348.76
0431	4,499.73	4,612.22	4,727.54	4,845.70	4,966.85	5,091.02	5,218.30	5,348.76	5,482.48
0432	4,612.22	4,727.54	4,845.70	4,966.85	5,091.02	5,218.30	5,348.76	5,482.48	5,619.55

**Exhibit "3"**



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

**SCHEDULE - D**  
**MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0433	27.1697	27.8489	28.5451	29.2587	29.9902	30.7400	31.5085	32.2962	33.1036
0434	27.8489	28.5451	29.2587	29.9902	30.7400	31.5085	32.2962	33.1036	33.9312
0435	28.5451	29.2587	29.9902	30.7400	31.5085	32.2962	33.1036	33.9312	34.7795
0436	29.2587	29.9902	30.7400	31.5085	32.2962	33.1036	33.9312	34.7795	35.6490
0437	29.9902	30.7400	31.5085	32.2962	33.1036	33.9312	34.7795	35.6490	36.5402
0438	30.7400	31.5085	32.2962	33.1036	33.9312	34.7795	35.6490	36.5402	37.4537
0439	31.5085	32.2962	33.1036	33.9312	34.7795	35.6490	36.5402	37.4537	38.3900
0440	32.2962	33.1036	33.9312	34.7795	35.6490	36.5402	37.4537	38.3900	39.3498
0441	33.1036	33.9312	34.7795	35.6490	36.5402	37.4537	38.3900	39.3498	40.3335
0442	33.9312	34.7795	35.6490	36.5402	37.4537	38.3900	39.3498	40.3335	41.3418
0443	34.7795	35.6490	36.5402	37.4537	38.3900	39.3498	40.3335	41.3418	42.3753
0444	35.6490	36.5402	37.4537	38.3900	39.3498	40.3335	41.3418	42.3753	43.4347
0445	36.5402	37.4537	38.3900	39.3498	40.3335	41.3418	42.3753	43.4347	44.5206
0446	37.4537	38.3900	39.3498	40.3335	41.3418	42.3753	43.4347	44.5206	45.6336

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0433	2,173.58	2,227.91	2,283.61	2,340.70	2,399.22	2,459.20	2,520.68	2,583.70	2,648.29
0434	2,227.91	2,283.61	2,340.70	2,399.22	2,459.20	2,520.68	2,583.70	2,648.29	2,714.50
0435	2,283.61	2,340.70	2,399.22	2,459.20	2,520.68	2,583.70	2,648.29	2,714.50	2,782.36
0436	2,340.70	2,399.22	2,459.20	2,520.68	2,583.70	2,648.29	2,714.50	2,782.36	2,851.92
0437	2,399.22	2,459.20	2,520.68	2,583.70	2,648.29	2,714.50	2,782.36	2,851.92	2,923.22
0438	2,459.20	2,520.68	2,583.70	2,648.29	2,714.50	2,782.36	2,851.92	2,923.22	2,996.30
0439	2,520.68	2,583.70	2,648.29	2,714.50	2,782.36	2,851.92	2,923.22	2,996.30	3,071.20
0440	2,583.70	2,648.29	2,714.50	2,782.36	2,851.92	2,923.22	2,996.30	3,071.20	3,147.98
0441	2,648.29	2,714.50	2,782.36	2,851.92	2,923.22	2,996.30	3,071.20	3,147.98	3,226.68
0442	2,714.50	2,782.36	2,851.92	2,923.22	2,996.30	3,071.20	3,147.98	3,226.68	3,307.34
0443	2,782.36	2,851.92	2,923.22	2,996.30	3,071.20	3,147.98	3,226.68	3,307.34	3,390.02
0444	2,851.92	2,923.22	2,996.30	3,071.20	3,147.98	3,226.68	3,307.34	3,390.02	3,474.78
0445	2,923.22	2,996.30	3,071.20	3,147.98	3,226.68	3,307.34	3,390.02	3,474.78	3,561.65
0446	2,996.30	3,071.20	3,147.98	3,226.68	3,307.34	3,390.02	3,474.78	3,561.65	3,650.69

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0433	4,727.54	4,845.70	4,966.85	5,091.02	5,218.30	5,348.76	5,482.48	5,619.55	5,760.03
0434	4,845.70	4,966.85	5,091.02	5,218.30	5,348.76	5,482.48	5,619.55	5,760.03	5,904.04
0435	4,966.85	5,091.02	5,218.30	5,348.76	5,482.48	5,619.55	5,760.03	5,904.04	6,051.63
0436	5,091.02	5,218.30	5,348.76	5,482.48	5,619.55	5,760.03	5,904.04	6,051.63	6,202.93
0437	5,218.30	5,348.76	5,482.48	5,619.55	5,760.03	5,904.04	6,051.63	6,202.93	6,358.00
0438	5,348.76	5,482.48	5,619.55	5,760.03	5,904.04	6,051.63	6,202.93	6,358.00	6,516.95
0439	5,482.48	5,619.55	5,760.03	5,904.04	6,051.63	6,202.93	6,358.00	6,516.95	6,679.86
0440	5,619.55	5,760.03	5,904.04	6,051.63	6,202.93	6,358.00	6,516.95	6,679.86	6,846.86
0441	5,760.03	5,904.04	6,051.63	6,202.93	6,358.00	6,516.95	6,679.86	6,846.86	7,018.03
0442	5,904.04	6,051.63	6,202.93	6,358.00	6,516.95	6,679.86	6,846.86	7,018.03	7,193.46
0443	6,051.63	6,202.93	6,358.00	6,516.95	6,679.86	6,846.86	7,018.03	7,193.46	7,373.29
0444	6,202.93	6,358.00	6,516.95	6,679.86	6,846.86	7,018.03	7,193.46	7,373.29	7,557.65
0445	6,358.00	6,516.95	6,679.86	6,846.86	7,018.03	7,193.46	7,373.29	7,557.65	7,746.59
0446	6,516.95	6,679.86	6,846.86	7,018.03	7,193.46	7,373.29	7,557.65	7,746.59	7,940.25

**Exhibit "3"**

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0447	38.3900	39.3498	40.3335	41.3418	42.3753	43.4347	44.5206	45.6336	46.7744
0448	39.3498	40.3335	41.3418	42.3753	43.4347	44.5206	45.6336	46.7744	47.9438
0449	40.3335	41.3418	42.3753	43.4347	44.5206	45.6336	46.7744	47.9438	49.1424
0450	41.3418	42.3753	43.4347	44.5206	45.6336	46.7744	47.9438	49.1424	50.3710
0451	42.3753	43.4347	44.5206	45.6336	46.7744	47.9438	49.1424	50.3710	51.6303
0452	43.4347	44.5206	45.6336	46.7744	47.9438	49.1424	50.3710	51.6303	52.9211
0453	44.5206	45.6336	46.7744	47.9438	49.1424	50.3710	51.6303	52.9211	54.2441
0454	45.6336	46.7744	47.9438	49.1424	50.3710	51.6303	52.9211	54.2441	55.6002
0455	46.7744	47.9438	49.1424	50.3710	51.6303	52.9211	54.2441	55.6002	56.9902
0456	47.9438	49.1424	50.3710	51.6303	52.9211	54.2441	55.6002	56.9902	58.4150
0457	49.1424	50.3710	51.6303	52.9211	54.2441	55.6002	56.9902	58.4150	59.8754
0458	50.3710	51.6303	52.9211	54.2441	55.6002	56.9902	58.4150	59.8754	61.3723
0459	51.6303	52.9211	54.2441	55.6002	56.9902	58.4150	59.8754	61.3723	62.9066
0460	52.9211	54.2441	55.6002	56.9902	58.4150	59.8754	61.3723	62.9066	64.4793

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0447	3,071.20	3,147.98	3,226.68	3,307.34	3,390.02	3,474.78	3,561.65	3,650.69	3,741.95
0448	3,147.98	3,226.68	3,307.34	3,390.02	3,474.78	3,561.65	3,650.69	3,741.95	3,835.50
0449	3,226.68	3,307.34	3,390.02	3,474.78	3,561.65	3,650.69	3,741.95	3,835.50	3,931.39
0450	3,307.34	3,390.02	3,474.78	3,561.65	3,650.69	3,741.95	3,835.50	3,931.39	4,029.68
0451	3,390.02	3,474.78	3,561.65	3,650.69	3,741.95	3,835.50	3,931.39	4,029.68	4,130.42
0452	3,474.78	3,561.65	3,650.69	3,741.95	3,835.50	3,931.39	4,029.68	4,130.42	4,233.69
0453	3,561.65	3,650.69	3,741.95	3,835.50	3,931.39	4,029.68	4,130.42	4,233.69	4,339.53
0454	3,650.69	3,741.95	3,835.50	3,931.39	4,029.68	4,130.42	4,233.69	4,339.53	4,448.02
0455	3,741.95	3,835.50	3,931.39	4,029.68	4,130.42	4,233.69	4,339.53	4,448.02	4,559.22
0456	3,835.50	3,931.39	4,029.68	4,130.42	4,233.69	4,339.53	4,448.02	4,559.22	4,673.20
0457	3,931.39	4,029.68	4,130.42	4,233.69	4,339.53	4,448.02	4,559.22	4,673.20	4,790.03
0458	4,029.68	4,130.42	4,233.69	4,339.53	4,448.02	4,559.22	4,673.20	4,790.03	4,909.78
0459	4,130.42	4,233.69	4,339.53	4,448.02	4,559.22	4,673.20	4,790.03	4,909.78	5,032.53
0460	4,233.69	4,339.53	4,448.02	4,559.22	4,673.20	4,790.03	4,909.78	5,032.53	5,158.34

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0447	6,679.86	6,846.86	7,018.03	7,193.46	7,373.29	7,557.65	7,746.59	7,940.25	8,138.74
0448	6,846.86	7,018.03	7,193.46	7,373.29	7,557.65	7,746.59	7,940.25	8,138.74	8,342.21
0449	7,018.03	7,193.46	7,373.29	7,557.65	7,746.59	7,940.25	8,138.74	8,342.21	8,550.77
0450	7,193.46	7,373.29	7,557.65	7,746.59	7,940.25	8,138.74	8,342.21	8,550.77	8,764.55
0451	7,373.29	7,557.65	7,746.59	7,940.25	8,138.74	8,342.21	8,550.77	8,764.55	8,983.66
0452	7,557.65	7,746.59	7,940.25	8,138.74	8,342.21	8,550.77	8,764.55	8,983.66	9,208.28
0453	7,746.59	7,940.25	8,138.74	8,342.21	8,550.77	8,764.55	8,983.66	9,208.28	9,438.48
0454	7,940.25	8,138.74	8,342.21	8,550.77	8,764.55	8,983.66	9,208.28	9,438.48	9,674.44
0455	8,138.74	8,342.21	8,550.77	8,764.55	8,983.66	9,208.28	9,438.48	9,674.44	9,916.30
0456	8,342.21	8,550.77	8,764.55	8,983.66	9,208.28	9,438.48	9,674.44	9,916.30	10,164.21
0457	8,550.77	8,764.55	8,983.66	9,208.28	9,438.48	9,674.44	9,916.30	10,164.21	10,418.32
0458	8,764.55	8,983.66	9,208.28	9,438.48	9,674.44	9,916.30	10,164.21	10,418.32	10,678.77
0459	8,983.66	9,208.28	9,438.48	9,674.44	9,916.30	10,164.21	10,418.32	10,678.77	10,945.75
0460	9,208.28	9,438.48	9,674.44	9,916.30	10,164.21	10,418.32	10,678.77	10,945.75	11,219.39

**Exhibit "3"**

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0403	13.4065	13.7417	14.0852	14.4373	14.7982	15.1682	15.5474	15.9361	16.3345
0404	13.7417	14.0852	14.4373	14.7982	15.1682	15.5474	15.9361	16.3345	16.7429
0405	14.0852	14.4373	14.7982	15.1682	15.5474	15.9361	16.3345	16.7429	17.1615
0406	14.4373	14.7982	15.1682	15.5474	15.9361	16.3345	16.7429	17.1615	17.5905
0407	14.7982	15.1682	15.5474	15.9361	16.3345	16.7429	17.1615	17.5905	18.0303
0408	15.1682	15.5474	15.9361	16.3345	16.7429	17.1615	17.5905	18.0303	18.4811
0409	15.5474	15.9361	16.3345	16.7429	17.1615	17.5905	18.0303	18.4811	18.9431
0410	15.9361	16.3345	16.7429	17.1615	17.5905	18.0303	18.4811	18.9431	19.4167
0411	16.3345	16.7429	17.1615	17.5905	18.0303	18.4811	18.9431	19.4167	19.9021
0412	16.7429	17.1615	17.5905	18.0303	18.4811	18.9431	19.4167	19.9021	20.3997
0413	17.1615	17.5905	18.0303	18.4811	18.9431	19.4167	19.9021	20.3997	20.9097
0414	17.5905	18.0303	18.4811	18.9431	19.4167	19.9021	20.3997	20.9097	21.4324
0415	18.0303	18.4811	18.9431	19.4167	19.9021	20.3997	20.9097	21.4324	21.9682
0416	18.4811	18.9431	19.4167	19.9021	20.3997	20.9097	21.4324	21.9682	22.5174
0417	18.9431	19.4167	19.9021	20.3997	20.9097	21.4324	21.9682	22.5174	23.0803
0418	19.4167	19.9021	20.3997	20.9097	21.4324	21.9682	22.5174	23.0803	23.6573

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0403	1,072.52	1,099.34	1,126.82	1,154.98	1,183.86	1,213.46	1,243.79	1,274.89	1,306.76
0404	1,099.34	1,126.82	1,154.98	1,183.86	1,213.46	1,243.79	1,274.89	1,306.76	1,339.43
0405	1,126.82	1,154.98	1,183.86	1,213.46	1,243.79	1,274.89	1,306.76	1,339.43	1,372.92
0406	1,154.98	1,183.86	1,213.46	1,243.79	1,274.89	1,306.76	1,339.43	1,372.92	1,407.24
0407	1,183.86	1,213.46	1,243.79	1,274.89	1,306.76	1,339.43	1,372.92	1,407.24	1,442.42
0408	1,213.46	1,243.79	1,274.89	1,306.76	1,339.43	1,372.92	1,407.24	1,442.42	1,478.49
0409	1,243.79	1,274.89	1,306.76	1,339.43	1,372.92	1,407.24	1,442.42	1,478.49	1,515.45
0410	1,274.89	1,306.76	1,339.43	1,372.92	1,407.24	1,442.42	1,478.49	1,515.45	1,553.34
0411	1,306.76	1,339.43	1,372.92	1,407.24	1,442.42	1,478.49	1,515.45	1,553.34	1,592.17
0412	1,339.43	1,372.92	1,407.24	1,442.42	1,478.49	1,515.45	1,553.34	1,592.17	1,631.98
0413	1,372.92	1,407.24	1,442.42	1,478.49	1,515.45	1,553.34	1,592.17	1,631.98	1,672.78
0414	1,407.24	1,442.42	1,478.49	1,515.45	1,553.34	1,592.17	1,631.98	1,672.78	1,714.59
0415	1,442.42	1,478.49	1,515.45	1,553.34	1,592.17	1,631.98	1,672.78	1,714.59	1,757.46
0416	1,478.49	1,515.45	1,553.34	1,592.17	1,631.98	1,672.78	1,714.59	1,757.46	1,801.39
0417	1,515.45	1,553.34	1,592.17	1,631.98	1,672.78	1,714.59	1,757.46	1,801.39	1,846.42
0418	1,553.34	1,592.17	1,631.98	1,672.78	1,714.59	1,757.46	1,801.39	1,846.42	1,892.58

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0403	2,332.73	2,391.06	2,450.83	2,512.08	2,574.90	2,639.28	2,705.24	2,772.89	2,842.20
0404	2,391.06	2,450.83	2,512.08	2,574.90	2,639.28	2,705.24	2,772.89	2,842.20	2,913.26
0405	2,450.83	2,512.08	2,574.90	2,639.28	2,705.24	2,772.89	2,842.20	2,913.26	2,986.10
0406	2,512.08	2,574.90	2,639.28	2,705.24	2,772.89	2,842.20	2,913.26	2,986.10	3,060.75
0407	2,574.90	2,639.28	2,705.24	2,772.89	2,842.20	2,913.26	2,986.10	3,060.75	3,137.26
0408	2,639.28	2,705.24	2,772.89	2,842.20	2,913.26	2,986.10	3,060.75	3,137.26	3,215.72
0409	2,705.24	2,772.89	2,842.20	2,913.26	2,986.10	3,060.75	3,137.26	3,215.72	3,296.10
0410	2,772.89	2,842.20	2,913.26	2,986.10	3,060.75	3,137.26	3,215.72	3,296.10	3,378.51
0411	2,842.20	2,913.26	2,986.10	3,060.75	3,137.26	3,215.72	3,296.10	3,378.51	3,462.97
0412	2,913.26	2,986.10	3,060.75	3,137.26	3,215.72	3,296.10	3,378.51	3,462.97	3,549.56
0413	2,986.10	3,060.75	3,137.26	3,215.72	3,296.10	3,378.51	3,462.97	3,549.56	3,638.30
0414	3,060.75	3,137.26	3,215.72	3,296.10	3,378.51	3,462.97	3,549.56	3,638.30	3,729.23
0415	3,137.26	3,215.72	3,296.10	3,378.51	3,462.97	3,549.56	3,638.30	3,729.23	3,822.48
0416	3,215.72	3,296.10	3,378.51	3,462.97	3,549.56	3,638.30	3,729.23	3,822.48	3,918.02
0417	3,296.10	3,378.51	3,462.97	3,549.56	3,638.30	3,729.23	3,822.48	3,918.02	4,015.96
0418	3,378.51	3,462.97	3,549.56	3,638.30	3,729.23	3,822.48	3,918.02	4,015.96	4,116.36



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

SCHEDULE - D

MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)

HOURLY

3.50%

Range	1	2	3	4	5	6	7	8	9
0419	19.9021	20.3997	20.9097	21.4324	21.9682	22.5174	23.0803	23.6573	24.2487
0420	20.3997	20.9097	21.4324	21.9682	22.5174	23.0803	23.6573	24.2487	24.8549
0421	20.9097	21.4324	21.9682	22.5174	23.0803	23.6573	24.2487	24.8549	25.4763
0422	21.4324	21.9682	22.5174	23.0803	23.6573	24.2487	24.8549	25.4763	26.1132
0423	21.9682	22.5174	23.0803	23.6573	24.2487	24.8549	25.4763	26.1132	26.7660
0424	22.5174	23.0803	23.6573	24.2487	24.8549	25.4763	26.1132	26.7660	27.4352
0425	23.0803	23.6573	24.2487	24.8549	25.4763	26.1132	26.7660	27.4352	28.1211
0426	23.6573	24.2487	24.8549	25.4763	26.1132	26.7660	27.4352	28.1211	28.8241
0427	24.2487	24.8549	25.4763	26.1132	26.7660	27.4352	28.1211	28.8241	29.5447
0428	24.8549	25.4763	26.1132	26.7660	27.4352	28.1211	28.8241	29.5447	30.2833
0429	25.4763	26.1132	26.7660	27.4352	28.1211	28.8241	29.5447	30.2833	31.0404
0430	26.1132	26.7660	27.4352	28.1211	28.8241	29.5447	30.2833	31.0404	31.8164
0431	26.7660	27.4352	28.1211	28.8241	29.5447	30.2833	31.0404	31.8164	32.6118
0432	27.4352	28.1211	28.8241	29.5447	30.2833	31.0404	31.8164	32.6118	33.4271

BI-WEEKLY

	1	2	3	4	5	6	7	8	9
0419	1,592.17	1,631.98	1,672.78	1,714.59	1,757.46	1,801.39	1,846.42	1,892.58	1,939.90
0420	1,631.98	1,672.78	1,714.59	1,757.46	1,801.39	1,846.42	1,892.58	1,939.90	1,988.39
0421	1,672.78	1,714.59	1,757.46	1,801.39	1,846.42	1,892.58	1,939.90	1,988.39	2,038.10
0422	1,714.59	1,757.46	1,801.39	1,846.42	1,892.58	1,939.90	1,988.39	2,038.10	2,089.06
0423	1,757.46	1,801.39	1,846.42	1,892.58	1,939.90	1,988.39	2,038.10	2,089.06	2,141.28
0424	1,801.39	1,846.42	1,892.58	1,939.90	1,988.39	2,038.10	2,089.06	2,141.28	2,194.82
0425	1,846.42	1,892.58	1,939.90	1,988.39	2,038.10	2,089.06	2,141.28	2,194.82	2,249.69
0426	1,892.58	1,939.90	1,988.39	2,038.10	2,089.06	2,141.28	2,194.82	2,249.69	2,305.93
0427	1,939.90	1,988.39	2,038.10	2,089.06	2,141.28	2,194.82	2,249.69	2,305.93	2,363.58
0428	1,988.39	2,038.10	2,089.06	2,141.28	2,194.82	2,249.69	2,305.93	2,363.58	2,422.66
0429	2,038.10	2,089.06	2,141.28	2,194.82	2,249.69	2,305.93	2,363.58	2,422.66	2,483.23
0430	2,089.06	2,141.28	2,194.82	2,249.69	2,305.93	2,363.58	2,422.66	2,483.23	2,545.31
0431	2,141.28	2,194.82	2,249.69	2,305.93	2,363.58	2,422.66	2,483.23	2,545.31	2,608.94
0432	2,194.82	2,249.69	2,305.93	2,363.58	2,422.66	2,483.23	2,545.31	2,608.94	2,674.17

MONTHLY

	1	2	3	4	5	6	7	8	9
0419	3,462.97	3,549.56	3,638.30	3,729.23	3,822.48	3,918.02	4,015.96	4,116.36	4,219.28
0420	3,549.56	3,638.30	3,729.23	3,822.48	3,918.02	4,015.96	4,116.36	4,219.28	4,324.75
0421	3,638.30	3,729.23	3,822.48	3,918.02	4,015.96	4,116.36	4,219.28	4,324.75	4,432.87
0422	3,729.23	3,822.48	3,918.02	4,015.96	4,116.36	4,219.28	4,324.75	4,432.87	4,543.71
0423	3,822.48	3,918.02	4,015.96	4,116.36	4,219.28	4,324.75	4,432.87	4,543.71	4,657.28
0424	3,918.02	4,015.96	4,116.36	4,219.28	4,324.75	4,432.87	4,543.71	4,657.28	4,773.73
0425	4,015.96	4,116.36	4,219.28	4,324.75	4,432.87	4,543.71	4,657.28	4,773.73	4,893.08
0426	4,116.36	4,219.28	4,324.75	4,432.87	4,543.71	4,657.28	4,773.73	4,893.08	5,015.40
0427	4,219.28	4,324.75	4,432.87	4,543.71	4,657.28	4,773.73	4,893.08	5,015.40	5,140.79
0428	4,324.75	4,432.87	4,543.71	4,657.28	4,773.73	4,893.08	5,015.40	5,140.79	5,269.29
0429	4,432.87	4,543.71	4,657.28	4,773.73	4,893.08	5,015.40	5,140.79	5,269.29	5,401.03
0430	4,543.71	4,657.28	4,773.73	4,893.08	5,015.40	5,140.79	5,269.29	5,401.03	5,536.05
0431	4,657.28	4,773.73	4,893.08	5,015.40	5,140.79	5,269.29	5,401.03	5,536.05	5,674.44
0432	4,773.73	4,893.08	5,015.40	5,140.79	5,269.29	5,401.03	5,536.05	5,674.44	5,816.32

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

SCHEDULE - D  
MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)  
HOURLY

Range	1	2	3	4	5	6	7	8	9	3.50%
0433	28.1211	28.8241	29.5447	30.2833	31.0404	31.8164	32.6118	33.4271	34.2628	
0434	28.8241	29.5447	30.2833	31.0404	31.8164	32.6118	33.4271	34.2628	35.1194	
0435	29.5447	30.2833	31.0404	31.8164	32.6118	33.4271	34.2628	35.1194	35.9974	
0436	30.2833	31.0404	31.8164	32.6118	33.4271	34.2628	35.1194	35.9974	36.8973	
0437	31.0404	31.8164	32.6118	33.4271	34.2628	35.1194	35.9974	36.8973	37.8197	
0438	31.8164	32.6118	33.4271	34.2628	35.1194	35.9974	36.8973	37.8197	38.7652	
0439	32.6118	33.4271	34.2628	35.1194	35.9974	36.8973	37.8197	38.7652	39.7343	
0440	33.4271	34.2628	35.1194	35.9974	36.8973	37.8197	38.7652	39.7343	40.7277	
0441	34.2628	35.1194	35.9974	36.8973	37.8197	38.7652	39.7343	40.7277	41.7459	
0442	35.1194	35.9974	36.8973	37.8197	38.7652	39.7343	40.7277	41.7459	42.7895	
0443	35.9974	36.8973	37.8197	38.7652	39.7343	40.7277	41.7459	42.7895	43.8592	
0444	36.8973	37.8197	38.7652	39.7343	40.7277	41.7459	42.7895	43.8592	44.9557	
0445	37.8197	38.7652	39.7343	40.7277	41.7459	42.7895	43.8592	44.9557	46.0796	
0446	38.7652	39.7343	40.7277	41.7459	42.7895	43.8592	44.9557	46.0796	47.2316	

BI-WEEKLY

	1	2	3	4	5	6	7	8	9
0433	2,249.69	2,305.93	2,363.58	2,422.66	2,483.23	2,545.31	2,608.94	2,674.17	2,741.02
0434	2,305.93	2,363.58	2,422.66	2,483.23	2,545.31	2,608.94	2,674.17	2,741.02	2,809.55
0435	2,363.58	2,422.66	2,483.23	2,545.31	2,608.94	2,674.17	2,741.02	2,809.55	2,879.79
0436	2,422.66	2,483.23	2,545.31	2,608.94	2,674.17	2,741.02	2,809.55	2,879.79	2,951.78
0437	2,483.23	2,545.31	2,608.94	2,674.17	2,741.02	2,809.55	2,879.79	2,951.78	3,025.58
0438	2,545.31	2,608.94	2,674.17	2,741.02	2,809.55	2,879.79	2,951.78	3,025.58	3,101.22
0439	2,608.94	2,674.17	2,741.02	2,809.55	2,879.79	2,951.78	3,025.58	3,101.22	3,178.74
0440	2,674.17	2,741.02	2,809.55	2,879.79	2,951.78	3,025.58	3,101.22	3,178.74	3,258.22
0441	2,741.02	2,809.55	2,879.79	2,951.78	3,025.58	3,101.22	3,178.74	3,258.22	3,339.67
0442	2,809.55	2,879.79	2,951.78	3,025.58	3,101.22	3,178.74	3,258.22	3,339.67	3,423.16
0443	2,879.79	2,951.78	3,025.58	3,101.22	3,178.74	3,258.22	3,339.67	3,423.16	3,508.74
0444	2,951.78	3,025.58	3,101.22	3,178.74	3,258.22	3,339.67	3,423.16	3,508.74	3,596.46
0445	3,025.58	3,101.22	3,178.74	3,258.22	3,339.67	3,423.16	3,508.74	3,596.46	3,686.37
0446	3,101.22	3,178.74	3,258.22	3,339.67	3,423.16	3,508.74	3,596.46	3,686.37	3,778.53

MONTHLY

	1	2	3	4	5	6	7	8	9
0433	4,893.08	5,015.40	5,140.79	5,269.29	5,401.03	5,536.05	5,674.44	5,816.32	5,961.72
0434	5,015.40	5,140.79	5,269.29	5,401.03	5,536.05	5,674.44	5,816.32	5,961.72	6,110.77
0435	5,140.79	5,269.29	5,401.03	5,536.05	5,674.44	5,816.32	5,961.72	6,110.77	6,263.54
0436	5,269.29	5,401.03	5,536.05	5,674.44	5,816.32	5,961.72	6,110.77	6,263.54	6,420.12
0437	5,401.03	5,536.05	5,674.44	5,816.32	5,961.72	6,110.77	6,263.54	6,420.12	6,580.64
0438	5,536.05	5,674.44	5,816.32	5,961.72	6,110.77	6,263.54	6,420.12	6,580.64	6,745.15
0439	5,674.44	5,816.32	5,961.72	6,110.77	6,263.54	6,420.12	6,580.64	6,745.15	6,913.76
0440	5,816.32	5,961.72	6,110.77	6,263.54	6,420.12	6,580.64	6,745.15	6,913.76	7,086.63
0441	5,961.72	6,110.77	6,263.54	6,420.12	6,580.64	6,745.15	6,913.76	7,086.63	7,263.78
0442	6,110.77	6,263.54	6,420.12	6,580.64	6,745.15	6,913.76	7,086.63	7,263.78	7,445.37
0443	6,263.54	6,420.12	6,580.64	6,745.15	6,913.76	7,086.63	7,263.78	7,445.37	7,631.51
0444	6,420.12	6,580.64	6,745.15	6,913.76	7,086.63	7,263.78	7,445.37	7,631.51	7,822.30
0445	6,580.64	6,745.15	6,913.76	7,086.63	7,263.78	7,445.37	7,631.51	7,822.30	8,017.85
0446	6,745.15	6,913.76	7,086.63	7,263.78	7,445.37	7,631.51	7,822.30	8,017.85	8,218.30

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

**SCHEDULE - D**  
**MANAGEMENT/CONFIDENTIAL GENERAL (MCMA)**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
0447	39.7343	40.7277	41.7459	42.7895	43.8592	44.9557	46.0796	47.2316	48.4124
0448	40.7277	41.7459	42.7895	43.8592	44.9557	46.0796	47.2316	48.4124	49.6227
0449	41.7459	42.7895	43.8592	44.9557	46.0796	47.2316	48.4124	49.6227	50.8633
0450	42.7895	43.8592	44.9557	46.0796	47.2316	48.4124	49.6227	50.8633	52.1349
0451	43.8592	44.9557	46.0796	47.2316	48.4124	49.6227	50.8633	52.1349	53.4383
0452	44.9557	46.0796	47.2316	48.4124	49.6227	50.8633	52.1349	53.4383	54.7743
0453	46.0796	47.2316	48.4124	49.6227	50.8633	52.1349	53.4383	54.7743	56.1437
0454	47.2316	48.4124	49.6227	50.8633	52.1349	53.4383	54.7743	56.1437	57.5473
0455	48.4124	49.6227	50.8633	52.1349	53.4383	54.7743	56.1437	57.5473	58.9860
0456	49.6227	50.8633	52.1349	53.4383	54.7743	56.1437	57.5473	58.9860	60.4607
0457	50.8633	52.1349	53.4383	54.7743	56.1437	57.5473	58.9860	60.4607	61.9722
0458	52.1349	53.4383	54.7743	56.1437	57.5473	58.9860	60.4607	61.9722	63.5215
0459	53.4383	54.7743	56.1437	57.5473	58.9860	60.4607	61.9722	63.5215	65.1095
0460	54.7743	56.1437	57.5473	58.9860	60.4607	61.9722	63.5215	65.1095	66.7372

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
0447	3,178.74	3,258.22	3,339.67	3,423.16	3,508.74	3,596.46	3,686.37	3,778.53	3,872.99
0448	3,258.22	3,339.67	3,423.16	3,508.74	3,596.46	3,686.37	3,778.53	3,872.99	3,969.82
0449	3,339.67	3,423.16	3,508.74	3,596.46	3,686.37	3,778.53	3,872.99	3,969.82	4,069.06
0450	3,423.16	3,508.74	3,596.46	3,686.37	3,778.53	3,872.99	3,969.82	4,069.06	4,170.79
0451	3,508.74	3,596.46	3,686.37	3,778.53	3,872.99	3,969.82	4,069.06	4,170.79	4,275.06
0452	3,596.46	3,686.37	3,778.53	3,872.99	3,969.82	4,069.06	4,170.79	4,275.06	4,381.94
0453	3,686.37	3,778.53	3,872.99	3,969.82	4,069.06	4,170.79	4,275.06	4,381.94	4,491.50
0454	3,778.53	3,872.99	3,969.82	4,069.06	4,170.79	4,275.06	4,381.94	4,491.50	4,603.78
0455	3,872.99	3,969.82	4,069.06	4,170.79	4,275.06	4,381.94	4,491.50	4,603.78	4,718.88
0456	3,969.82	4,069.06	4,170.79	4,275.06	4,381.94	4,491.50	4,603.78	4,718.88	4,836.86
0457	4,069.06	4,170.79	4,275.06	4,381.94	4,491.50	4,603.78	4,718.88	4,836.86	4,957.78
0458	4,170.79	4,275.06	4,381.94	4,491.50	4,603.78	4,718.88	4,836.86	4,957.78	5,081.72
0459	4,275.06	4,381.94	4,491.50	4,603.78	4,718.88	4,836.86	4,957.78	5,081.72	5,208.76
0460	4,381.94	4,491.50	4,603.78	4,718.88	4,836.86	4,957.78	5,081.72	5,208.76	5,338.98

**MONTHLY**

	1	2	3	4	5	6	7	8	9
0447	6,913.76	7,086.63	7,263.78	7,445.37	7,631.51	7,822.30	8,017.85	8,218.30	8,423.75
0448	7,086.63	7,263.78	7,445.37	7,631.51	7,822.30	8,017.85	8,218.30	8,423.75	8,634.36
0449	7,263.78	7,445.37	7,631.51	7,822.30	8,017.85	8,218.30	8,423.75	8,634.36	8,850.21
0450	7,445.37	7,631.51	7,822.30	8,017.85	8,218.30	8,423.75	8,634.36	8,850.21	9,071.47
0451	7,631.51	7,822.30	8,017.85	8,218.30	8,423.75	8,634.36	8,850.21	9,071.47	9,298.26
0452	7,822.30	8,017.85	8,218.30	8,423.75	8,634.36	8,850.21	9,071.47	9,298.26	9,530.72
0453	8,017.85	8,218.30	8,423.75	8,634.36	8,850.21	9,071.47	9,298.26	9,530.72	9,769.01
0454	8,218.30	8,423.75	8,634.36	8,850.21	9,071.47	9,298.26	9,530.72	9,769.01	10,013.22
0455	8,423.75	8,634.36	8,850.21	9,071.47	9,298.26	9,530.72	9,769.01	10,013.22	10,263.56
0456	8,634.36	8,850.21	9,071.47	9,298.26	9,530.72	9,769.01	10,013.22	10,263.56	10,520.17
0457	8,850.21	9,071.47	9,298.26	9,530.72	9,769.01	10,013.22	10,263.56	10,520.17	10,783.17
0458	9,071.47	9,298.26	9,530.72	9,769.01	10,013.22	10,263.56	10,520.17	10,783.17	11,052.74
0459	9,298.26	9,530.72	9,769.01	10,013.22	10,263.56	10,520.17	10,783.17	11,052.74	11,329.05
0460	9,530.72	9,769.01	10,013.22	10,263.56	10,520.17	10,783.17	11,052.74	11,329.05	11,612.28

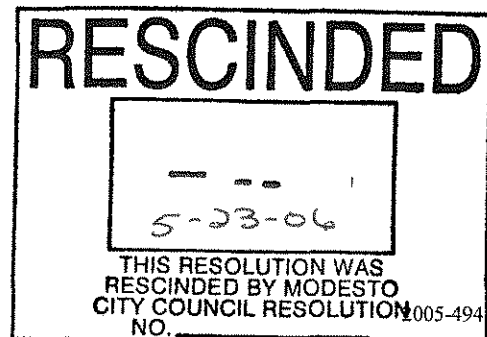
**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-494**

**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE OCTOBER 4, 2005, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2005-493 IMPLEMENTING THE CITY'S LAST, BEST, AND FINAL OFFER AND APPROVING MAINTENANCE OF PERSONNEL PRACTICES BY THE CITY OF MODESTO WITH RESPECT TO EMPLOYEES REPRESENTED BY MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION UNTIL THEY ARE CHANGED OR MODIFIED BY THE CITY IN THE MANNER REQUIRED BY LAW AND SETTING FORTH SALARY SCHEDULES FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES**

WHEREAS, on October 4, 2005, the City Council adopted Resolution No. 2005-493 implementing the City of Modesto's (CITY) Last, Best and Final Offer and approving maintenance of the personnel practices by the CITY with respect to employees represented by the Modesto Confidential and Management Association (MCMA) until they are changed or modified by the CITY in the manner required by law 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 Represented Management and Confidential Non-Sworn Classes, entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective October 4, 2005" 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 4th day of October 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **October 4, 2005**

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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	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

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
436	Electrical Supervisor Senior Planner
437	



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

RANGE      TITLE

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- 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 NO. 2005-495**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING BUDGET TO TRANSFER \$414,500 FROM VARIOUS FUND RESERVES (\$207,250 FROM THE GENERAL FUND RESERVE AND \$207,250 FROM OTHER FUND RESERVES) TO VARIOUS ACCOUNTS IN DEPARTMENTS' OPERATING BUDGETS FOR IMPLEMENTATION OF THE CITY'S LAST, BEST AND FINAL OFFER TO THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION**

WHEREAS, the current 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, representatives of the CITY and MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, no agreement was reached, and

WHEREAS, the City Council desires to increase the CITY's contribution to Health, Dental and Vision benefits for employees represented by MCMA, and

WHEREAS, the City Council desires to increase the salaries of employees represented by MCMA, and

WHEREAS, the FY 05-06 costs associated with these increases are estimated at \$414,500, effective July 26, 2005, and

WHEREAS, these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2005-06 Operating Budget is hereby amended to transfer \$414,500 from various Fund reserves (\$207,250 from the General Fund Reserve and \$207,250 from other Fund reserves) to various accounts in departments' operating budgets for

implementation of the City's last, best and final offer to the Modesto Confidential and Management Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-496**

**A RESOLUTION APPROVING A \$379,200 AGREEMENT WITH CAROLLO ENGINEERS, OF WALNUT CREEK, CALIFORNIA, FOR PROFESSIONAL ENGINEERING SERVICES TO DEVELOP THE WASTEWATER MASTER PLAN PHASE 2 (TREATMENT AND DISPOSAL) UPDATE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto completed its last Wastewater Master Plan (WWMP) in 1995, and to date, it has served its intended purpose of guiding development and various wastewater system improvements, and

WHEREAS, municipal WWMPs are updated every five to seven years to incorporate additional growth, current operations, and new planning data, and

WHEREAS, a number of changes have occurred in the last ten years which make it necessary to update the WWMP, and

WHEREAS, the Economic Development Committee reviewed this item at its meeting on January 12, 2004, and recommended its approval, and

WHEREAS, Phase 1 was started in January 2004, and is expected to be completed in November 2005, and it is necessary to begin Phase 2 in order to complete the entire WWMP, and

WHEREAS, after subsequent Request for Qualifications and Request for Proposals processes, Carollo Engineers, of Walnut Creek, was determined to be the most qualified firm to perform the work for the WWMP Phase 2 Update, and

WHEREAS, the Acting Public Works Director recommends accepting the proposal of Carollo Engineers, in an amount not to exceed \$379,200,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Agreement with Carollo Engineers for the preparation of the Wastewater Master Plan Phase 2 (Treatment and Disposal) Update in an amount not to exceed \$379,200.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-497**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO ENGINEERS BY (1) RETURNING \$36,722 FROM 6210-440-5201-0235 (CAPITAL IMPROVEMENT SERVICES ADMINISTRATION) AND \$30,214 FROM 6210-430-A209 (ENGINEERING SYSTEMS ANALYSIS) TO RESERVES ACCOUNT 6210-800-8000-8003; AND (2) REAPPROPRIATION OF \$66,936 FROM RESERVES TO 6210-430-A208 (WASTEWATER MASTER PLAN UPDATE)**

WHEREAS, the Wastewater Master Plan account 6210-430-A208 only provides \$332,264 of the Carollo Engineers consultant contract in the amount of \$379,200, and

WHEREAS, certain budgetary transactions are necessary to fully fund said contract, and

WHEREAS, \$36,722 is to be transferred to reserves from Capital Improvement Services Administration Account 6210-440-5201-0235, and

WHEREAS, \$30,214 is to be transferred to reserves from Engineering Systems Analysis account 6210-430-A209, and

WHEREAS, \$66,936 is to be transferred from reserves to the Wastewater Master Plan Update account 6210-430-A208,

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 Carollo Engineers engineering services contract 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 4th day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-498**

**A RESOLUTION APPOINTING SIX 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. One Modesto area high school student is hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Johansen High School  
Yasher Nazi

SECTION 2. Five 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  
Neil Watson

Modesto High School  
Katy Uyeno

Central Catholic High School  
Trenton Maylor

Modesto Christian School  
Michelle Mitchell

Johansen High School  
Britni Meeks

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 11<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-499**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND WILLIAM LYON HOMES, INC. FOR IMPROVEMENTS ON FLOYD AVENUE (BETWEEN FINE AVENUE AND CLAUS ROAD) 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), WITH AN ADDENDUM FOR AMENDMENT OF THE VILLAGE ONE SPECIFIC PLAN, AMENDMENT OF PRECISE PLAN AREA 24, APPROVAL OF PRECISE PLAN AREA 23, FALLING LEAF VESTING TENTATIVE SUBDIVISION MAP, AND SUBSEQUENT APPROVAL CONSISTENT WITH THE PROPOSED PROJECT (EA/C&ED NO. 2004-58)**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, William Lyon Homes, Inc. ("Developer") has agreed to install certain improvements on Floyd Avenue (between Fine Avenue 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 Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$2,413,507, and

WHEREAS, the City Council has received and considered the Initial Study, Environmental Assessment No. EA/C&ED No. 2004-58, which concludes that Developer's project entitled Amendment of the Village One Specific Plan, Amendment of Precise Plan Area 24, Approval of Precise Plan Area 23, Falling Leaf Vesting Tentative Subdivision Map, and Subsequent Approval Consistent with the Proposed

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 modified by the 1994 Final Supplemental EIR (SCH No. 90020181), with an Addendum for the Amendment of the Village One Specific Plan, Amendment of Precise Plan Area 24, Approval of Precise Plan Area 23, Falling Leaf Vesting Tentative Subdivision Map, and Subsequent Approval Consistent with the Proposed Project (EA/C&ED No. 2004-58), 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 William Lyon Homes, Inc. ("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 Initial Study, Environmental Assessment EA/C&ED No. 2004-58, provides the substantial evidence to support findings 1-5, 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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-500**

**A RESOLUTION APPROVING A TWO (2) YEAR AGREEMENT FOR  
FEDERAL LOBBYING SERVICES IN THE ANNUAL AMOUNT OF \$120,000  
WITH PATTON BOGGS, 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, in October 1993, the City enlisted the services of Ball Janik LLP to represent the City's federal interests, and

WHEREAS, on June 30, 2001, the consultant contract agreement with Ball Janik LLP expired, and

WHEREAS, on May 22, 2001, the Modesto City Council adopted Resolution No. 2001-229, approving issuance of a Request for Qualifications (RFQ) for Federal Legislative Lobbying Services, and

WHEREAS, on May 23, 2001, a RFQ for Federal Legislative Lobbyist Services was issued and 17 responses were received, and

WHEREAS, the RFQ responses were reviewed and ranked according to criteria established in the RFQ, and

WHEREAS, personal interviews were conducted with the top eight respondents, and

WHEREAS, on August 2, 2001, the Economic Development and Intergovernmental Relations Committee conducted interviews with Patton Boggs and Van Scoyoc and made a recommendation that the full Council approve sole source negotiations with Patton Boggs, and

WHEREAS, this original agreement for lobbying services was for the annual amount of \$64,800 from October 2, 2001 to October 1, 2002, and

WHEREAS, on October 2, 2002 an amendment to the original agreement was executed which extended the term of the agreement to October 1, 2003, and

WHEREAS, on October 2, 2003 a second amendment was executed which extended the term of the agreement to October 1, 2005 and increased the annual compensation to \$71,280, and

WHEREAS, since the firm of Patton Boggs, LLP has been instrumental in landing significant federal funding for the City of Modesto, 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 Patton Boggs, LLP to perform federal legislative lobbying services,

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 in the annual amount of \$120,000 with Patton Boggs, LLP, 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 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**STANDARD  
AGREEMENT FOR CONSULTANT SERVICES**

*THIS AGREEMENT*, made and entered into in the City of Modesto, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the *CITY OF MODESTO*, a municipal corporation of the State of California, hereinafter referred to as *CITY*, and *PATTON BOGGS 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 October 2, 2005, and will continue in effect until October 1, 2007, 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 October 2, 2005 and ending on October 1, 2007. 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: Patton Boggs LLP  
2550 M Street, NW  
Washington, D.C. 20037-1350

14. INSURANCE REQUIREMENTS

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by registered mail, return receipt requested, for all of the following stated insurance policies.

(a) General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$1,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations; and professional liability.



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

(c) Professional Liability insurance with a minimum limit of \$1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The city, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Worker's Compensation. The Worker's Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing

existence of the insurance called for in the contract specifications to the City Clerk at the time the contract is signed.

15. TERMINATION OF AGREEMENT

Termination on Occurrence of Stated Events

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

Termination by City for Default of Consultant

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by city, dishonesty or theft.

#### Termination by City for Lack of Budgeted Funds

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

#### Termination for Failure to Make Agreed Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

#### Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent contractor status, City may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice.

#### Voluntary Termination

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

#### In the Event of Termination

If this Agreement is terminated pursuant to this paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work. Further, if City so requests, and

at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant for the final month in which Consultant provided services on a pro rata basis as determined by City in its sole discretion.

16. CITY PROJECT MANAGER

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

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

17. INDEMNITY

Consultant, its agents, officers and employees shall defend, indemnify, and hold harmless City, its agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney's fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any act or omission of Consultant whether or not the act or omission arises from the sole negligence or other liability of City, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this agreement.

Consultant's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. ENTIRE AGREEMENT

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superceded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

19. PARTIAL VALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

20. WAIVER

The waiver of any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

21. AUDIT

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, files and other materials related to charges under this Agreement for a period of four (4) years following the date of final

payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

22. GOVERNING LAW

This Agreement shall be governed according to the laws of the State of California.

23. HEADINGS NOT CONTROLLING

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

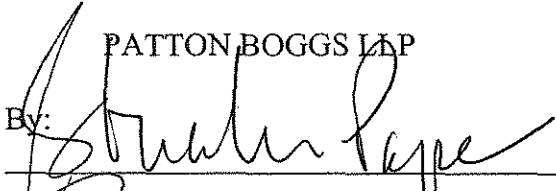
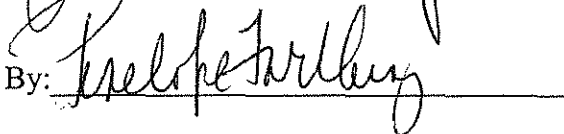
24. COMPLIANCE WITH LAWS

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. Consultant will have a City of Modesto business license.

*IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. \_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_ day of \_\_\_\_\_, 2005, and Consultant has caused this agreement to be duly executed.*

CITY OF MODESTO,  
a California municipal corporation

By: \_\_\_\_\_  
George W. Britton, City Manager

PATTON BOGGS LLP  
By:  \_\_\_\_\_  
By:  \_\_\_\_\_

Consultant Federal ID# 52-0749196

*ATTEST:*

By \_\_\_\_\_  
JEAN ZAHR, City Clerk

*APPROVED AS TO FORM:*

By: \_\_\_\_\_  
MICHAEL D. MILICH, 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 NO. 2005-501**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 ANNUAL OPERATING  
BUDGET TO APPROPRIATE \$44,705 FROM 0100-800-8000-8003 GENERAL FUND  
RESERVE TO FULLY FUND AN AGREEMENT FOR CONSULTANT SERVICES  
WITH PATTON BOGGS, LLP, TO PERFORM FEDERAL LEGISLATIVE LOBBYING  
SERVICES**

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, in October of 2001, the City of Modesto entered into an agreement with Patton Boggs, LLP for federal lobbying services, and

WHEREAS, this original agreement for lobbying services was for the annual amount of \$64,800 from October 2, 2001 to October 1, 2002, and

WHEREAS, on October 2, 2002 an amendment to the original agreement was executed which extended the term of the agreement to October 1, 2003, and

WHEREAS, on October 2, 2003 a second amendment was executed which extended the term of the agreement to October 1, 2005 and increased the annual compensation to \$71,280, and

WHEREAS, since the firm of Patton Boggs, LLP has been instrumental in landing significant federal funding for the City of Modesto, 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 Patton Boggs, LLP to perform federal legislative lobbying services, and

WHEREAS, the terms of said agreement exceed the amount budgeted for federal legislative lobbying services for Fiscal Year 2006 by \$44,705.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2005-2006 Annual Operating Budget to fund the

Agreement for Consulting Services with Patton Boggs, LLP, to perform Federal Legislative Lobbying Services as indicated below:

Account	Adjustment	Description
0100-800-8000-8003	(\$44,705.00)	General Fund Reserve
0100-020-0201-0235	\$44,705.00	City Manager's Office Professional Services

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 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Mike Milich  
MICHAEL D. MILICH, City Attorney

APPROVED AS TO SUFFICIENCY:

By Greg Baird  
GREG BAIRD, Deputy Director of Finance

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-502**

**A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING  
CORPORATION FOR THE PREPARATION OF A DRAFT ENVIRONMENTAL  
IMPACT REPORT FOR THE PROPOSED TIVOLI (FORMERLY ROSELLE  
NEIGHBORHOOD) SPECIFIC PLAN PROJECT, AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO  
EXCEED \$406,062.00**

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; adoption of a specific plan; a General Plan Amendment to 1) reclassify Claratina Avenue from a 4-lane expressway to a 6-lane Principal Arterial, 2) change the General Plan land use designation from Village Residential (VR) to Regional Commercial (RC) for about 69 acres located at the southeast corner of the future intersection of Claratina Avenue and Oakdale Road and along Oakdale Road south of Mable Avenue, and 3) allow Village Residential development to exceed the recommended density of 5.1 units per gross acre; 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 abandonment of a portion of Mable Avenue, 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, City Staff has negotiated a scope of work for the third phase of the contract, involving preparation of the Draft Environmental Impact Report on the Tivoli Specific Plan is a subsequent phase of the environmental review to be an amount not to exceed \$406,062.00, and

WHEREAS, City staff will be returning to Council for a contract amendment for a fourth phase of work for preparation of the Final EIR,

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 Turnstone Consulting Corporation for the preparation of a Draft Environmental Impact Report for the proposed Tivoli Specific Plan is hereby approved, in an amount not to exceed \$406,062.00, 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 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Mike Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-503**

**A RESOLUTION APPROVING AN AGREEMENT FOR SERVICES BETWEEN  
THE CITY OF MODESTO AND IMPACT SCIENCES INC. FOR  
PREPARATION OF AN INITIAL STUDY FOR THE PROPOSED  
PELANDALE/MCHENRY SPECIFIC PLAN PROJECT IN AN AMOUNT NOT  
TO EXCEED \$116,380.00, AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, Michael P. Evans of Meritage Homes has applied for a specific plan, referred to 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 Pelandale/McHenry Specific Plan will also involve the following associated entitlements: rezoning to a Specific Plan-Overlay (SP-O) zone; annexation; 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) and 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, the City has determined that an Initial Study in accordance with Section 15063 of the CEQA Guidelines is necessary for the proposed Pelandale/McHenry Specific Plan project and related applications in order to determine whether an environmental impact report will be required for the Project, 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 Impact Sciences Inc., to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Impact Sciences Inc. to prepare the environmental assessment for the Pelandale/McHenry Specific Plan because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City staff anticipates that the environmental assessment work will involve two contracts, the first phase being the current contract for the preparation of an Initial Study in an amount not to exceed \$116,380, and

WHEREAS, City staff will be returning to Council with a subsequent contract for the second phase of work for preparation of the appropriate environmental document, as determined in the Initial Study.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto and Impact Sciences Inc. for the preparation of an Initial Study for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed \$116,380, is hereby approved. A copy of the 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 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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr  
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-504**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Lisa Forester Council Action Date: \_\_\_\_\_  
 Telephone No.: 577-6480 Resolution Number: \_\_\_\_\_  
 Department: Parks, Recreation and Neighborhoods  
 Fund Title: Centre Plaza FF&E Transfer No. \_\_\_\_\_  
FY: **05-06**

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

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

***APPROPRIATIONS***

<u>FROM</u>					
6710-800-8000-8003	6710R		(\$36,254)	(\$36,254)	Centre Plaza FF&E Reserves
<u>TO</u>					
6710 340 3420 0360	3420C	\$18,500	\$36,524	\$55,024	FF&E Re Prop M&R

**COMMENTS/JUSTIFICATION**

The Furniture, Fixtures & Equipment Fund is funded each budget year from Centre Plaza revenues year for specific projects or purchases. There were purchases that were not completed or encumbered in Fiscal Year 2004-05 and the remaining funds need to be re-appropriated in FY 2005/2006.

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**

*Finance Comm. 09-26*

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 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
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**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u> MY-1350-310-A081-3213			\$35,531		Land & Water Conservation

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u> 06-1350-800-8000-8003	1350R		\$35,531		Contingency Reserves

**TRANSFERS BETWEEN FUNDS**

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

**COMMENTS/JUSTIFICATION**

Increase the budgeted revenue due to the Land 7 Water Conservation Grant of \$35,531.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Laurie A. Smith  
 Telephone No.: 577-5347  
 Department: CEDD

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

Fund Title: 1442 - DID

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

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

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

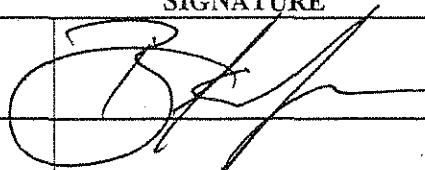
RECEIVED  
 SEP - 6 2005

**APPROPRIATIONS**

<u>FROM</u> 0900-800-8000-8003			(\$5,000)	(\$5,000)	DID Reserves
<u>TO</u> 0900-140-1442-0235		\$63,000	\$5,000	\$68,000	Services, Professional & Other

**COMMENTS/JUSTIFICATION**

Appropriation of \$5,000 from DID Reserves to be used for the Downtown Tree Watering program. This item was approved by the DID Board of Directors at the July 25, 2005 meeting. These funds will be used for the watering of trees within the Downtown Improvement District boundaries for this budget year only. There is no general fund impact.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		9/6/05
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)		

# REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: \_\_\_\_\_

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

### Monthly Adjustment

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

<b>FROM</b>					
MY-6510-165-A044-3540			\$401,129	\$401,129	FTA X720 Grant
MY-6510-165-A044-3548			\$60,000	\$60,000	FTA5307-CA-90-Y162 Grant
MY-6510-165-A044-3552			\$240,000	\$240,000	FTA5307-CA-90-Y310 Grant
<b>TO</b>					
				\$701,129	

#### APPROPRIATIONS

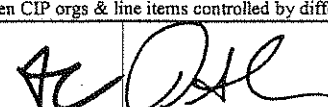
<b>FROM</b>					
06-6540-800-8000-8003	6540R	\$73,136	(\$121,758)	(\$48,622)	Transit Contingency
06-6510-800-8000-8003	6510R	\$399,622	(\$42,001)	\$357,621	Transit Contingency
<b>TO</b>					
06-6510-800-8000-8003	6510r	\$277,864	\$121,758	\$399,622	Transit contingency
MY-6510-165-A044-6070	A044	\$780,886	\$42,001	\$822,887	

#### TRANSFERS BETWEEN FUNDS

<b>FROM</b>					
MY-6540-700-A044-7651	A044G		\$121,758	\$121,758	Transfer to vehicle locator
<b>TO</b>					
MY-6510-700-A044-9654			\$121,758	\$121,758	Transfer to vehicle locator

#### COMMENTS/JUSTIFICATION

This monthly adjustment is to align this project with the three grants that are available from the FTA. Council had approved to consolidate the projects into one project for ease of accounting purposes. This adjustment places the correct revenues from grants and LTF match and increases the expense side of the project appropriately to take full advantage of available grant funding

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPUTY DIRECTOR (Public Works Dept)</b> Authorized up to threshold of \$50k w/o Director Approval		
<b>DEPUTY DIRECTOR (Public Works) *</b> Authorized up to threshold of \$50k w/o Director Approval		
* second signature required for movement of funds between CIP orgs & line items controlled by different divisions (e.g. Water and E&T)		
<b>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		7/20/05
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CFF/CFD ADMINISTRATOR</b> When necessary for CIP		
<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: Yvette Ramos  
 Telephone No.: 7-5249  
 Department: 32  
 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
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**DEPARTMENTAL REVENUES**

<u>FROM</u> MY-2300-310-A087-3604		\$400,000	(\$400,000)		FTA Capital Grant
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u> MY-2300-310-P713-6040	P713	\$3,178,484	(\$473,202)	\$2,705,282	Virgina Corridor Phase III
<u>TO</u> 06-2300-800-8000-8003	2300R		\$73,202		Reserve Contingency

**TRANSFERS BETWEEN FUNDS**

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

**COMMENTS/JUSTIFICATION**

Since the Boxer Grant (FTA Capital Grant) has not come through yet, the budget is being reduced by \$400,000. In order for the project to be balanced the expenses must be reduced by \$73,202. The total project reduction is \$473,202.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works Dept) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		
* 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 (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-505**

**A RESOLUTION APPROVING A REVISION TO THE CITY'S BUDGETARY  
CONTROL & AUTHORITY POLICY**

WHEREAS, the City of Modesto adopts a Budgetary Control & Authority Policy as part of the annual budget process, and

WHEREAS, during staff review, a discrepancy was found in the policy creating authority conflicts and language revisions are needed to clearly define the City Council's authority over multi-year projects, and

WHEREAS, the policy shown in Attachment A notes the language revisions needed to clear up the discrepancies and conflicts,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the revised Budgetary Control & Authority Policy attached herewith.

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

## **Budgetary Control & Authority**

The City of Modesto's Budgetary Control & Authority policy is adopted by the City Councils as a part of the resolution adopting the annual budget.

### Basic Policy

The City budget is adopted at the fund level, and the authorized amount of expenditure for each fund is listed in the operating budget, a copy of which is on file with the Clerk's Office.

Multi-year appropriations, including Capital Improvement Program (CIP) projects, authorized in previous years and not yet expended continue to be valid until explicitly revoked, notwithstanding the annual appropriation in the operating budget on file with the Clerk's Office.

### City Manager's Authority

The City Manager may take the following budgetary actions without Council approval:

- Transfer appropriations between departments within a fund
- Transfer appropriations to or from salary line items
- Appropriate unbudgeted departmental revenues
- Appropriate reserves approved for litigation on a case-by-case basis
- Appropriate remaining ABS reserves
- Revoke multi-year appropriations and close CIP projects

### Finance Director's Authority

The Finance Director may take the following budgetary actions without Council approval:

- Appropriate unbudgeted grant interest
- Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount shall not increase
- Make technical budget corrections to implement the intent of Council-approved actions and resolutions
- Transfer appropriations between sub-funds of a single fund.



Department Directors' Authority

Department directors may take the following budgetary actions without Council approval:

- Transfer appropriations between non-salary line items within a department, within a single fund
- Transfer appropriations between organizations and activities within a department, within a single fund

Actions Reserved to Council

All other budgetary actions require the approval of the City Council. In addition, the following specific actions always require Council approval, any other provision of this policy notwithstanding.

- Appropriation of undesignated reserves
- Appropriation of non-departmental revenues
- Budgeting of inter-fund transfers
- Budgeting of inter-fund loans
- Creating or increasing any multi-year Capital Improvement Program (CIP) appropriation including CIP projects
- Addition of permanent staff positions

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-506**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
STANISLAUS COUNTY FIRE AUTHORITY JOINT POWERS AGREEMENT,  
WHICH GRANTS THE CITY OF MODESTO MEMBERSHIP IN THE  
STANISLAUS COUNTY FIRE AUTHORITY**

WHEREAS, the Stanislaus County Fire Authority was formed by the Stanislaus County Board of Supervisors in June 2005, and

WHEREAS, the purpose of the Stanislaus County Fire Authority is to administer the auxiliary fire services provided through the less than countywide fire service tax, collected in every county fire jurisdiction except Modesto and Turlock, and

WHEREAS, the fees are collected by Stanislaus County and utilized to provide fire prevention, fire investigation, suppression assistance, training and limited administration to each fire district in which the fees are collected, and

WHEREAS, the above services are currently provided through contract by the Stanislaus Consolidated Fire Protection District, and

WHEREAS, the Board of Supervisors contributes \$300,000, to the over \$800,000 in fees collected, to pay for the contract, and

WHEREAS, the City of Modesto does not receive fire services through the contract, and

WHEREAS, the Modesto Fire Department provides significant assistance to surrounding fire agencies, through mutual aid and automatic aid agreements, and

WHEREAS, much of the fire suppression support previously provided through the contract between the Board of Supervisors and Stanislaus Consolidated Fire Protection District, is now being provided by the Modesto Fire Department, and

WHEREAS, due to the inter-relationship of the county fire service, and the dependence on the City of Modesto to provide assistance during both unusual and many routine emergencies, and

WHEREAS, membership in the Stanislaus County Fire Authority will give Modesto a voice in how the less than countywide fire services contract is administered, and the level of service which is provided through it, and

WHEREAS, the Safety and Communities Committee approved this request on October 3, 2005, for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby Authorizes the City Manager, or his designee, as agent of the City to execute the agreement for membership into the Stanislaus County Fire Authority.

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-507**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
CONTRACT BETWEEN THE CITY OF MODESTO AND THE YOSEMITE  
COMMUNITY COLLEGE DISTRICT (YCCD), ALLOWING THE  
COMMUNITY COLLEGE DISTRICT TO REIMBURSE THE CITY OF  
MODESTO FOR IN-SERVICE TRAINING HOURS IN THE FIRE AND POLICE  
DEPARTMENTS. THIS REVENUE WOULD BE USED TO AUGMENT THE  
EDUCATIONAL PARTNERSHIP PROGRAM ADMINISTERED BY THE  
PERSONNEL DEPARTMENT**

WHEREAS, Modesto Junior College is part of the Yosemite Community College District, and

WHEREAS, Modesto Junior College offers a variety of credit and non-credit courses, and

WHEREAS, if these classes meet guidelines related to open access and minimum qualification of instructional staff, YCCD receives reimbursement from the State of California, and

WHEREAS, Modesto Junior College, through the efforts of city public safety personnel, will deliver in-service training through the vehicle of college curriculum entitled "special topics" courses, and

WHEREAS, these courses would be reimbursed by the State, and

WHEREAS, a portion of revenues accrued by YCCD would be paid to the City to defray the costs of service provision, and

WHEREAS, the maximum payment to the City would be \$72,000 for up to 50 Full Time Equivalent Student (FTES) units during fiscal year 2005-2006, which represents approximately one dollar per student hour, and two dollars per FTE reimbursement, and

WHEREAS, the revenues received by the City will be used to augment the educational partnership program administered by the Personnel Department, and

WHEREAS, the Safety and Communities Committee approved this request on October 3, 2005, for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, as agent of the City to execute the agreement for reimbursement by YCCD for FTES.

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-508**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET TO APPROPRIATE \$12,000 FROM 0100-800-8000-8003, GENERAL  
FUND RESERVE, TO 6600-330-3316-0223, GOLF FUND REPAIR AND  
MAINTENANCE TO FUND THE REPLACEMENT OF THE MUNICIPAL  
GOLF COURSE CLUBHOUSE ROOF**

WHEREAS, the existing Municipal Golf Course Clubhouse Roof has deteriorated and needs replacement, and

WHEREAS, the Golf Fund does not have the reserves or budgeted appropriations necessary to complete this repair, and

WHEREAS, the roof replacement is estimated to cost \$12,000, and

WHEREAS, the Finance Committee met on September 26, 2005, and supported the staff recommendation to fund the replacement of the Municipal Golf Course Clubhouse Roof with General Fund monies,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Council hereby amends the Fiscal Year 05-06 operating budget to appropriate \$12,000 from 0100-800-8000-8003, General Fund Reserve, to 6600-330-3316-0223, Golf Fund Repair and Maintenance to fund the replacement of the Municipal Golf Course Clubhouse Roof.

BE IT FURTHER RESOLVED that the Finance Department 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 October, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-509**

**A RESOLUTION FINDING THAT A SHELTER CRISIS EXISTS WITHIN THE  
CITY OF MODESTO, DECLARING A SHELTER EMERGENCY AS  
AUTHORIZED BY THE CALIFORNIA GOVERNMENT CODE, AND  
AUTHORIZING THE CITY MANAGER OR DESIGNEE TO TAKE ACTIONS  
NECESSARY TO MITIGATE THE EFFECTS OF THE SHELTER CRISIS**

WHEREAS, there are estimated to be between 7,200 and as many as 11,000  
homeless citizens in Stanislaus County, and

WHEREAS, more than an estimated 3,450 citizens are homeless in and about the  
City of Modesto, and

WHEREAS, all emergency shelters serving Modesto are full and unable to  
provide overnight shelter, and

WHEREAS, the California Legislature has determined that “A fundamental  
purpose of government is to protect the health and safety of persons within its  
jurisdiction,” and

WHEREAS, the California Legislature has determined that “Homelessness is a  
state which results in a direct threat to the health and safety of its victims, many of who  
have died, particularly during severe weather conditions, as a result of this state of  
homelessness,” and

WHEREAS, the months of January, February and March are historically among  
the coldest and most inclement months of the year in the San Joaquin Valley, and

WHEREAS, the Council of the City of Modesto finds that there is a significant  
number of persons who are without the ability to obtain shelter in Modesto, resulting in a  
threat to their health and safety, and



WHEREAS, on January 6, 2004, the City Council, by Resolution No. 2004-020, declared that a shelter crisis existed within the City of Modesto, and declared a Shelter Emergency as authorized in the California Government Code, and

WHEREAS, after the declaration of the Shelter Emergency crisis in Modesto, the Salvation Army opened a winter shelter and provided shelter to 426 unduplicated individuals and the Community Housing and Shelter Services provided motel vouchers to 239 unduplicated families and individuals, and

WHEREAS, \$1,500 from the General Fund should be allocated to the Salvation Army to assist with the operation of the winter shelter, and

WHEREAS, in kind services provided by the City to the Salvation Army Winter Shelter will include exterior, non-structural maintenance, graffiti abatement, weed control and debris and litter collection, and

WHEREAS, a 3 yard-bin and weekly services will be provided by Waste Management free of charge during the 05-06 winter shelter season,

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

1. That a Shelter Crisis, as that term is defined in Section 8698 of the California Government Code (“Code”), is hereby proclaimed to exist in the City of Modesto.
2. That during the term of the Shelter Crisis proclaimed by this resolution, the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety shall be suspended to the extent that strict

compliance would in any way prevent, hinder, or delay the mitigation of the effects of the Shelter Crisis.

3. That during the term of the Shelter Crisis, the City Manager, or his designee, is hereby authorized to take any action that he or she deems necessary in his or her sole discretion to assist in the mitigation of the Shelter Crisis proclaimed by this resolution for the purpose of providing emergency housing in any Public Facility, as that term is defined in Code Section 8698, provided the Public Facility is located in a C-M, M-1, or M-2 zone and further provided that the Public Facility is greater than 500 feet from any single-family residence.

4. That during the term of the Shelter Crisis proclaimed by this resolution, the City Manager, or his designee, shall, despite the suspension of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety as set forth in paragraph 2, require such conditions as he or she deems necessary to ensure minimal public health and safety with respect to any Public Facilities open to the homeless during the term of the Shelter Crisis.

5. That the City Manager, or his designee, is authorized to execute one or more agreements with any not-for-profit entity which is now, or proposes in the future, to operate a Public Facility open to the homeless during the term of the Shelter Crisis proclaimed by this resolution.

6. That \$1,500 from the General Fund will be allocated to The Salvation Army to assist with operational costs of the winter shelter, and in kind services will be provided by the City to the Salvation Army Winter Shelter, including exterior, non-structural maintenance, graffiti abatement, weed control, debris and litter collection.

7. That on or before May 23, 2006, the City Manager, or his designee, shall provide a report to the Council describing any and all actions taken by him or her pursuant to the authority conferred by this resolution.

8. That the Shelter Crisis proclaimed by this resolution shall terminate on April 30, 2006, unless earlier terminated or extended by a subsequent 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 11<sup>th</sup> day of October 2005, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-510**

**A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$295,993  
FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY  
ORIENTED POLICING SERVICES FOR THE COPS 2005 TECHNOLOGY  
GRANT PROGRAM FOR THE PROCUREMENT OF EQUIPMENT AND  
TECHNOLOGY TO ENHANCE LAW ENFORCEMENT, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY  
DOCUMENTS**

WHEREAS, on May 10, 2005, by Resolution No. 2005-242, the City Council authorized the submittal of an application in the amount of \$295,993 to the U.S. Department of Justice, Office of Community Oriented Policing Services for a COPS 2005 Technology Grant Program, and

WHEREAS, the program is for a 12-month period and allows for the procurement of equipment and technology to enhance law enforcement, and

WHEREAS, the Police Department, lead by the Department of Information and Technology wishes to acquire new public safety systems for mobile data computing, automated vehicle location and automated field reporting, 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 grant project will be \$295,993 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 grant in the amount of \$295,993 from the U.S. Department of Justice, Office of Community Oriented Policing Services for the COPS 2005 Technology Grant Program for the acquisition of new public safety systems for mobile data

computing, automated vehicle location and automated field reporting.

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 special meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-511**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE FROM THE U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES FOR THE  
COPS 2005 TECHNOLOGY GRANT PROGRAM AND APPROPRIATING  
FUNDS FOR THE PURCHASE OF LAW ENFORCEMENT TECHNOLOGY**

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of \$295,993 from the U.S. Department of Justice, Office of Community Oriented Policing Services for the COPS 2005 Technology Grant Program, and

WHEREAS, the federal award funds were made available for the purchase of the procurement of equipment technology to enhance law enforcement, and

WHEREAS, the Police Department, lead by the Department of Information and Technology, wishes to acquire a new public safety systems for mobile data computing, automated vehicle location and automated field reporting, and

WHEREAS, the total grant project will be \$295,993, 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 COPS 2005 Technology 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:           0410-190-2904-5000           Enhance LE Technology

Revenue:

From:        0410-190-2904-3508           COPS 2005 Technology 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 special meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridneour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-512**

**A RESOLUTION ACCEPTING THE 2005 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM IN THE AMOUNT OF \$116,260 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 2005 Edward Byrne Justice Assistance Grant to be funded by the U. S. Department of Justice, and

WHEREAS, acceptance of said \$116,260 grant will 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,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the \$116,260 grant entitled the 2005 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 in relation thereto.



The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-513**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 OPERATING  
BUDGET TO ESTIMATE REVENUE AND APPROPRIATE FUNDS FOR THE  
2005 BYRNE JUSTICE ASSISTANCE GRANT (BJAG) WITH THE U.S.  
DEPARTMENT OF JUSTICE**

WHEREAS, the Police Department acquired a grant award in the sum of \$116,260 from the U.S. Department of Justice for the 2005 Byrne Justice Assistance Grant to assist in 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, 2005 and end on September 30, 2008, and

WHEREAS, the City shall be compensated \$116,200 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 2005/2006 Annual Budget is hereby amended as indicated below to initiate said grant project:

	<u>Expenses:</u>		
To:	0400-190-2902-5926	\$116,200	2005 Byrne Justice Assistance Grant
	<u>Revenue:</u>		
From:	0400-190-2902-3508	\$116,200	Grant Revenue

BE IT FURTHER RESOLVED that the Acting 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 special meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-514**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS TO INCREASE THE PROJECT  
SCOPE, BY ADDING ADDITIONAL PAVING AND STORM DRAIN WORK, ON  
THE "FLOYD AVENUE IMPROVEMENTS – OAKDALE ROAD TO GROUSE  
CROSSING WAY" PROJECT FROM 8 PERCENT (\$188,365.87) TO 16.5  
PERCENT (\$388,504.60) OF THE ORIGINAL CONTRACT PRICE WITH  
GEORGE REED, INC. TOTAL ESTIMATED COST OF THIS PROJECT IS  
\$4,743,961.00, WHICH INCLUDES RIGHT-OF-WAY, CONSTRUCTION  
CONTINGENCY, CONSTRUCTION ADMINISTRATION AND ENGINEERING  
DESIGN**

WHEREAS, on May 24, 2005, the City Council awarded a \$2,354,573.40 contract to George Reed, Inc. to construct the "Floyd Avenue Improvements – Oakdale Road to Grouse Crossing Way" project, and

WHEREAS, the contractor started work on August 4, 2005, and

WHEREAS, additional work not included in the original bid is to be added to the project to improve existing pavement and storm water drainage, and

WHEREAS, the cost of the extra work could be as high as an estimated \$388,504.60, 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 \$188,365.87, 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 (\$188,365.87) to 16.5 percent (\$388,504.60) of the original

contract price for the project entitled "Floyd Avenue Improvements – Oakdale Road to Grouse Crossing Way."

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 October, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-515**

**A RESOLUTION MAKING CERTAIN FINDINGS CONCERNING  
MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND  
REPORTING PROGRAM, MAKING FINDINGS CONCERNING  
ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING  
CONSIDERATIONS IN CONNECTION WITH APPROVAL OF THE PROJECT  
CONTEMPLATED BY THE FINAL SUBSEQUENT ENVIRONMENTAL  
IMPACT REPORT FOR THE MODESTO REGIONAL WATER TREATMENT  
PLANT PHASE TWO EXPANSION PROJECT AND RELATED DOWNSTREAM  
IMPROVEMENTS (SCH NO. 2004022013)**

WHEREAS, the City of Modesto (the “City”) and the Modesto Irrigation District (“MID”) have been planning for the Phase II expansion of the Modesto Regional Water Treatment Plant (“MRWTP”) and the construction of new water storage tanks, distribution pipelines and associated downstream facilities to improve the delivery capacity of the existing MRWTP (“Project”); and

WHEREAS, in March, 1990, the City and MID certified a Final EIR (SCH No. 89020044) for the MRWTP and construction of new water storage tanks, distribution pipelines and associated downstream facilities, which included an environmental assessment for the proposed Project in accordance with the California Environmental Quality Act, Public Resources Section 21000, et seq (“CEQA”); and

WHEREAS, on January 26, 2004, the City and MID as co-lead agencies published an Initial Study and a Notice of Preparation (“IS/NOP”) for the proposed Project; and

WHEREAS, based on the information in the Initial Study and because of the additional level of detail known about the project and the potential for changed conditions since the certification of the 1990 Final EIR for the MRWTP, the City and

MID determined that a Subsequent Environmental Impact Report (“SEIR”) was required for the proposed Project; and

WHEREAS, on July 12, 2005, the City Council certified the Final SEIR for the proposed MRWTP Phase II Expansion and the construction of downstream facilities (SCH No. 2004022013); and

WHEREAS, the City proposes to approve the Project as analyzed by the Final SEIR, including approval of the Amended and Restated Treatment and Delivery Agreement with MID, design and construction of the Downstream City Facilities, which includes storage tanks, pipelines, flow control valves, pumps, and associated structures, acquisition of rights of way as necessary to implement the Downstream City Facilities, and any activities as necessary to obtain necessary permits or authorizations to implement the Downstream City Facilities; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. On July 12, 2005, the Final SEIR was completed and certified in compliance with CEQA.
2. The Final SEIR has been presented to the City Council and the Council has reviewed and analyzed the Final SEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearing on the Final SEIR.
3. That all significant effects of the Project on the environment have been eliminated or substantially eliminated where feasible.

4. That the Findings set forth in Exhibit “A” and incorporated by reference are hereby adopted as the City’s findings under the California Environmental Quality Act (“CEQA”), Public Resources Code Section 21000, et seq., and the CEQA guidelines, Cal. Code Regs., Title 13, sec. 15000 et seq., relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.
5. That pursuant to Public Resources Code Section 21091 and CEQA Guidelines Sections 15091, et seq., the City Council hereby adopts and makes the following statement of overriding considerations regarding the remaining significant and unavoidable impacts of the Project and the anticipated environmental, economic, legal, social, technological, and other benefits of the Project.
  - a. With respect to the foregoing findings, as set forth in Exhibit A, and in recognition of those facts which are included in the record as a whole, the City Council has determined the following:
    - That the Project will cause significant, unavoidable impacts to Aesthetics and Visual Resources, Agricultural Resources, Air Quality, Population and Housing, Noise and Transportation and Traffic
    - That the Project will contribute to significant, unavoidable cumulative impacts to Agricultural Resources, Air Quality and Population and Housing

These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

b. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, legal, social, technological, and other considerations set forth herein because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and



independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These findings and this Statement of Overriding Considerations are supported by evidence in the record.

c. Benefits of the Proposed Project

The City Council has considered the FSEIR, the record of proceedings on the proposed Project, including all written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project would result in the substantial public benefits set forth below.

The City Council has weighed the benefits of and needs for the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the FSEIR and hereby determines that those benefits and needs outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

- i. The Project will provide water treatment and delivery capacity through expansion of MID's existing MRWTP and terminal reservoir/pump station in order to provide existing users with a reliable source of potable water and accommodate future planned development in the City, in accordance with the City of Modesto's General Plan.
- ii. The Project will put MID's water rights to beneficial use for the benefit of the residents of the City of Modesto.
- iii. The Project will meet peak treated water demands and maintain water line pressures for the City's existing users.
- iv. The Project will improve water supply reliability for the City.
- v. The Project will increase operational flexibility and reliability in the City's water transmission and distribution system.

- vi. The Project will assist the City in developing a more comprehensive conjunctive use system for domestic water treatment and delivery, and reduce the City's reliance on groundwater.
  - vii. The Project will enable the City to use environmentally sensitive and cost effective methods for achieving the above objectives and meeting the above needs.
- 6. The Mitigation Monitoring and Reporting Program for the Final SEIR is attached to this resolution as Exhibit "B" and is incorporated and adopted as part of this resolution herein. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.
  - 7. The above findings and statement of overriding considerations represent the independent judgment of the City of Modesto.
  - 8. The City Council does hereby designate the Deputy Director, Capital Improvement Services for the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the custodian of documents and record of proceedings on which this decision is based; and
  - 9. The City Council does hereby make the foregoing findings with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting approval of the Project and certification of the Final SEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft SEIR and were not certified as part of the Final SEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final SEIR and elsewhere in the record.

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 October 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MRWTP Phase Two Expansion Project**

**Findings and  
Facts in Support of Findings**

*Prepared for:*

Modesto Irrigation District  
1231 Eleventh Street  
Modesto, CA 95354  
Contact: Greg Dias 209/526-7566

and

City of Modesto  
1010 Tenth Street, Suite 4600  
Modesto, CA 95353  
Contact: Jack Bond 209/571-5424

October 2005

Jones & Stokes. 2005. *MRWTP Phase Two Expansion Project Findings and Facts in Support of Findings*. October. (J&S 03-564.) Oakland, CA.

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# Acronyms and Abbreviations

afa	acre-feet annually
BMPs	best management practices
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
City	City of Modesto
City Council	City of Modesto City Council
DFG	California Department of Fish and Game
DSEIR	Draft SEIR
EPA	federal Environmental Protection Agency
FSEIR	final subsequent environmental impact report
M&ET	Modesto & Empire Traction
MBTA	Migratory Bird Treaty Act
MEIR	Master Environmental Impact Report Update
MF/UF	microfiltration or ultrafiltration
MG	million-gallon
mgd	million gallons per day
MID	Modesto Irrigation District
MID Board	MID Board of Directors
MMRP	Mitigation Monitoring and Reporting Plan
MRWTP	Modesto Regional Water Treatment Plant
Proposed Project	Modesto Regional Water Treatment Plant Phase Two Expansion Project
SEIR	subsequent environmental impact report
StanCOG	Stanislaus Council of Governments
SWRCB	State Water Resources Control Board
VELB	valley elderberry longhorn beetle

## Introduction

Modesto Irrigation District (MID) and the City of Modesto (City) have prepared a subsequent environmental impact report (SEIR) to provide the public, responsible agencies, and trustee agencies with information about the potential environmental effects of the proposed Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion Project (Proposed Project). As part of the Proposed Project, MID is proposing to construct and operate the Phase Two Expansion of the MRWTP and associated facilities. Also as part of the Proposed Project, the City is proposing to construct and operate new water storage tanks, pipelines, and associated facilities. All of these facilities are needed to provide adequate municipal and industrial water supply within the City's service area. A previous EIR was prepared in 1990 that addressed these facilities at a general level of detail; this SEIR was prepared to evaluate the Proposed Project in more detail now that the specific project features are more defined, and to address any changes in conditions that have occurred since the 1990 EIR was certified.

MID and the City certified the final subsequent environmental impact report (FSEIR) for this project on July 12, 2005. This document presents the MID Board of Directors' (MID Board's) and City of Modesto City Councils' (City Council's) findings and facts in support of findings, and statement of overriding considerations for the Proposed Project, as required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The FSEIR is known as the MRWTP Phase Two Expansion Project FSEIR.

The MRWTP Phase Two Expansion Project FSEIR identifies potentially significant impacts in the following subject areas: aesthetics and visual resources, agricultural resources, air quality, water resources, noise, population and housing, recreation, cultural resources, biological resources, and transportation. The FSEIR also identifies mitigation measures to reduce the level of significance of anticipated impacts. Mitigation measures include without limitation compensation for loss of farmland, street sweeping, best management practices to maximize stormwater quality, appropriate design on retention facilities, stop work requirements and development of appropriate treatment measures if buried cultural resources are found, stop work and notification requirements if Native American remains are found, cultural resources surveys in archaeological resources zones prior to construction, completion of a cultural



resources treatment plan, preconstruction surveys for valley elderberry longhorn beetle, avoidance or compensation measures for loss of valley elderberry longhorn beetle habitat, transplanting of elderberry shrubs, implementation of California Department of Fish and Game (DFG) guidelines for Swainson's Hawk foraging habitat mitigation, preconstruction surveys for nesting Swainson's Hawk, preconstruction surveys for active Burrowing Owl burrows, maintenance of traffic lanes and limits on hours of construction, implementation of enhanced measures to control PM10 generation, and measures to reduce emissions.

## Organization of This Document

This first section of this document provides a brief summary of the Proposed Project and the environmental review process. Section 2 contains the findings of the MID Board and City Council for each significant environmental effect of the Proposed Project identified in the FSEIR, as required by CEQA. Section 3 describes the alternatives considered.

## Project Description

The Proposed Project includes two main components.

- Expansion of the MRWTP, which will allow MID to provide an additional 33,600 acre-feet annually (afa) of treated domestic water to the City.
- Construction of downstream facilities within the City, including water storage tanks, pump stations, distribution pipelines, and pressure-regulating control valves.

The MRWTP will continue to be owned and operated by MID; the downstream facilities will belong to the City. Water from the MRWTP will continue to be conveyed from the MRWTP near Modesto Reservoir to the City water system through an existing water transmission system constructed as part of the Phase One project.

The water treatment plant expansion will occur on the same parcel as the existing MRWTP site. The MRWTP expansion is substantively similar to the Phase Two expansion described in the 1990 EIR. Project alternatives for the expansion are summarized in Section 3 of this document.

Improvements to the City water distribution system will consist of three water storage tanks and related appurtenances, including pump stations, pipelines to connect the water storage tanks to the City's existing distribution infrastructure, up to 30 control valves on turnouts, and three additional main pipelines to move water throughout the City. While most of these project components were identified in the project description in the 1990 EIR, they were not subjected to a site-specific environmental analysis in that document. In the SEIR, nine

alternative tank sites and seven alternative main pipeline alignments are considered at an equal level of detail to allow flexibility in ultimate design and construction.

As part of the Proposed Project, MID has received approval from the State Water Resources Control Board (SWRCB) for a water transfer to the City of 67,200 afa. This transfer and the associated facilities described above will supply water in support of current and planned growth within the City of Modesto as envisioned in the City and MID's 2000 *Urban Water Management Plan* (City of Modesto and Modesto Irrigation District 2000), the *City of Modesto Urban Area General Plan* (City of Modesto 1995), and the Urban Area General Plan Master EIR (City of Modesto 2003).

## CEQA Process

A previous EIR was prepared for the Proposed Project and certified in 1990 (Modesto Irrigation District 1990). MID and the City determined that, because of the additional level of detail known about the project and the potential for changed conditions since the certification of the 1990 FEIR for the MRWTP, the preparation of a subsequent EIR (SEIR) was warranted to disclose any new or significantly more severe impacts associated with the Phase Two project as currently proposed. This SEIR is limited to information and analysis associated with changes in the Proposed Project or the conditions under which the Proposed Project is undertaken that could cause the project to result in new or more severe impacts other than those identified in the 1990 EIR. MID and the City are both lead agencies on this project.

In the SEIR, MID and the City analyzed the Proposed Project based on CEQA and the CEQA Guidelines, and determined that the Proposed Project could have potentially significant effects on the environment, including significant effects that cannot be avoided.

Consistent with CEQA requirements, the Draft SEIR (DSEIR) for the Proposed Project was circulated for a 45-day public comment period (Monday, November 8–Friday, December 24), and two public meetings were held (Wednesday, December 15 at 2 p.m. and 6 p.m.). Although members of the public were invited to voice their comments at these meetings through various means, including multiple newspaper notices, direct mailings, and announcements on MID and the City's websites, no one attended either meeting. All comments received during the public comment period are addressed in Chapter 2 of the FSEIR. As a result of these comments, the DSEIR was revised, and typographical errors were corrected, as shown in Chapter 3 of the FSEIR.

Concurrent with their respective approvals of the proposed project, the MID Board and the City Council hereby adopt the following findings of fact regarding the significant effects and the alternatives identified in the FSEIR and the

statement of overriding considerations explaining the benefits that outweigh the significant unavoidable impacts identified in the FSEIR.

Pursuant to Public Resources Code Section 21081.6, the MID Board and the City Council are adopting a Mitigation Monitoring and Reporting Plan (MMRP). The MMRP establishes a program to ensure that the adopted mitigation measures identified in the FSEIR will be implemented.

## **CEQA Requirements**

CEQA, Public Resources Code Section 21000 et seq., requires a lead agency to make written findings of project impacts whenever the lead agency decides to approve a project for which an EIR has been certified (Public Resources Code Section 21081). Regarding these findings, Section 15091 of the CEQA Guidelines (Title 14, California Code of Regulations) states, in part:

1. No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - a. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
  - b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
  - c. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
2. The findings required by subsection (a) shall be supported by substantial evidence in the record.

The “changes or alterations” referred to in the CEQA Guidelines may be mitigation measures, alternatives to the project, or changes to the project by the project proponent. The MRWTP Phase Two Expansion Project FSEIR identifies mitigation measures that will reduce significant effects of the Proposed Project or mitigate other potential effects that may not be, strictly speaking, environmental effects under CEQA. These mitigation measures will be incorporated into the design of the Proposed Project. A Mitigation Monitoring and Reporting Plan (MMRP) will also be adopted by the MID Board and City Council to ensure that

the mitigation measures identified in the FSEIR and in these findings will be implemented.

The documents and other materials that constitute the record upon which MID and the City based their decision and these findings can be reviewed at the following locations.

Modesto Irrigation District  
1231 Eleventh Street  
Modesto, CA 95354  
Contact: Greg Dias  
(209) 526-7566

City of Modesto  
1010 Tenth Street, Suite 4600  
Modesto, CA 95353  
Contact: Jack Bond  
(209) 571-5149

## Findings

### Findings Regarding Independent Review and Judgment

Each member of the MID Board and the City Council received a complete copy of the FSEIR for the Proposed Project. The MID Board and City Council have independently reviewed and analyzed the FSEIR prior to taking final action with respect to the Proposed Project. Both the MID Board and City Council hereby find that the FSEIR reflects their individual independent judgment.

### Findings Regarding the Project

In accordance with CEQA Guidelines Sections 15091, the following findings and supporting facts address each significant environmental impact that has been changed (including adoption of mitigation measures) to avoid or substantially reduce the magnitude of the impact, as identified in the FSEIR. The purpose of the findings is to provide explanations for the determination of significant impacts and conclusions on the level of significance of impacts following implementation of mitigation measures.

## Findings Regarding Significant and Unavoidable Impacts

The significant and unavoidable impacts of the Proposed Project are discussed below. These are effects for which either no mitigation is feasible or the mitigation measures included in the FSEIR will lessen the effects but will not result in complete mitigation of the effects to a less-than-significant level.

As lead agencies on the MRWTP Phase Two Expansion Project, MID and the City are both making the following findings.

### Aesthetics and Visual Resources

#### ***Impact AES-3. Adverse Effect on Views of Open Space During Construction. (City of Modesto facilities)***

Construction of the various project components would have a temporary adverse effect on views of open space. Construction activities would introduce heavy equipment, including cranes, dozers, graders, scrapers, and trucks, as well as safety and directional signage into the viewshed of public roadways and residences adjacent to construction areas. Proposed tank sites N-3, W-1, W-2, and W-3 are currently visible from residences in their vicinity. Additionally, due to a high groundwater table, tanks constructed at any of these sites could not be fully buried and would extend at least 10 feet above the grade. This impact is considered significant and unavoidable for proposed tank sites N-3, W-1, W-2, and W-3; impacts would also be considered significant and unavoidable for tank sites N-1 and N-2, if residences within 50 yards of the tank site exist at the onset of construction.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Because construction of the Proposed Project will result in temporary above ground construction activities that will alter the visual quality of the sites, no feasible mitigation is available to reduce the impact to a less than significant level. Environmental Commitments CS-1-CS-3, as described in the FSEIR, will partially mitigate and minimize visual impacts related to construction activities by screening construction staging areas and limiting construction work hours. However, implementation of these measures would not fully mitigate the temporary aesthetic impacts due to construction to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable as it relates to residences located within 50 feet of the proposed tank sites. Visual impacts for all other construction sites will be less than significant.

***Impact AES-4. Adverse Effect on Views of Open Space During Operation. (City of Modesto facilities)***

A 6-million-gallon (MG) water storage tank would be installed at the selected north site, and a 4-MG tank would be installed at each of the selected west and southeast sites. These tanks would be up to 35 feet in height and 250 feet in diameter. The southeast sites are located in existing industrial areas and would therefore not have substantial adverse visual impacts; however, a tank built on any of the other proposed tank sites may potentially obscure existing views of open space. At proposed tank site N-2, the structure may potentially obscure the existing view of the orchard. At the other proposed sites, the structure may obscure the vista of the open space currently existing on the parcel. Proposed tank sites N-3, W-1, W-2, and W-3 all have existing single-family residences and residential communities as close as 50 to 200 yards. Tank sites N-1 and N-2 could also become surrounded by urban development in the future, as designated by the City's General Plan. The proximity of existing residences (or future residences, if they were to exist at the time of construction) to the north and west tank sites necessitates the construction of a partially buried tank and the implementation of environmental commitments SD-1–SD-7 to obtain a less than significant impact level. If it is infeasible to partially bury the tank because of cost, a high groundwater table, or other site-specific constraints and an aboveground tank is constructed instead, this impact would be significant and unavoidable.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Because construction of the Proposed Project will result in new water storage tanks that will alter the visual quality of the sites, no feasible mitigation is available to reduce the impact to a less-than-significant level. Environmental Commitments SD-1–SD-7, as described in the FSEIR, will minimize visual impacts of project facilities by reducing visibility from roads, partially burying the tanks, minimizing glare and reflectivity, shielding lights, using materials consistent with surrounding rural residential areas, and providing screening and landscaping. However, implementation of the measures would not fully mitigate the temporary aesthetic impacts due to construction to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

## **Agricultural Resources**

***Impact AG-3: Conflict with Agricultural Uses on Nearby Properties and Long-Term Indirect Conversion of Farmland to Non-Agricultural Use. (MID facilities)***

Expansion of the MRWTP would not cause adjacent agricultural lands to be converted to non-agricultural uses. However, the Proposed Project is intended to

facilitate the build-out of the City's General Plan. As such, it would indirectly contribute to the conversion of the agricultural lands that currently exist in the City's sphere of influence. The City's *General Plan Master Environmental Impact Report Update* (MEIR) (City of Modesto 2003) identified this conversion as significant and unavoidable.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of MID facilities, selected from two MRWTP expansion options. As mitigation, the City incorporated several measures into its 2003 General Plan to reduce this potential impact, including:

1. Agriculture Policies – Baseline Developed Area
  - a. If a subsequent project is within the Baseline Developed Area or Redevelopment Area as identified on the General Plan Growth Strategy Diagram...the project shall be considered to have minimal effect on the conversion of agricultural lands, and no mitigation for that impact is required.
2. Agriculture Policies – Planned Urbanizing Area
  - a. The City will not annex agricultural land unless urban development consistent with the General Plan has been approved by the City.
  - b. The City shall support the continuation of agricultural uses on lands designated for urban uses until urban development is imminent.
  - c. Where necessary to promote planned City growth, the City shall encourage development of those agricultural lands that are already compromised by adjacent urban development or contain property required for the extension of infrastructure or other public facilities, before considering urban development on agricultural lands that are not subject to such urban pressures.
  - d. The General Plan should attempt to minimize the loss of agricultural land by having future development be relatively compact and of reasonably high density.

These measures will partially mitigate potential impacts to the long-term indirect conversion of farmland to non-agricultural uses. However, implementation of these measures would not fully mitigate this long-term impact to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.



***Impact AG-4: Conversion of Prime Farmland to Non-Agricultural Use. (City of Modesto facilities)***

The Proposed Project has the potential to convert as much as 10 acres of Prime Farmland to nonagricultural use if one of the sites N-1, N-2, or N-3, and one of the sites W-2 or W-3, are selected and developed. This impact is considered significant and unavoidable. Mitigation Measures AG-4, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto water tanks on potential sites N-1, N-2, N-3, W-2, or W-3. Contribution to the California Farmland Conservancy, or an equivalent program, to fund farmland preservation projects in Stanislaus County would serve to compensate for the loss of farmland that directly results from the proposed project. However, preservation of Prime Farmland through agricultural easements on other Prime Farmland parcels would not mitigate the direct loss of Prime Farmland resulting from the project to a less-than-significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

The FSEIR further states that the restoration and/or recovery of Prime Farmland from existing urban uses to offset the loss of Prime Farmland would mitigate the loss caused by the proposed project. However, such a measure would be unreasonably costly and inefficient and would, therefore, be infeasible.

***Impact AG-5: Conflict with Existing Zoning for Agricultural Use or Williamson Act Contracts. (City of Modesto facilities)***

None of the proposed tank sites is designated for agricultural use in the City's General Plan. However, three sites (sites N-2, N-3, and W-2) are under a Williamson Act contract, which effectively prevents the land from being zoned in any category other than A-2 (general agriculture). According to the County of Stanislaus (2004), facilities for public uses are compatible with Williamson Act contracts and can be constructed on the proposed sites, provided that a permit is obtained. The impact would nonetheless be significant because of the loss of long-term agricultural productivity. Thus far, none of the lands under Williamson Act contract have filed for non-renewal of contract, and the proposed timeline for the project is such that filing for non-renewal would not remove the contract in time to eliminate the impact. This impact is significant and unavoidable. Mitigation Measure AG-4, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto water tanks on potential sites N-2, N-3 and W-2. Contribution to the California Farmland Conservancy, or an equivalent program, to fund farmland

preservation projects in Stanislaus County would serve to compensate for the loss of farmland that directly results from the proposed project. However, preservation of Prime Farmland through agricultural easements on other Prime Farmland parcels would not mitigate the direct loss of Prime Farmland resulting from the project to a less-than-significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

The FSEIR further states that the restoration and/or recovery of Prime Farmland from existing urban uses to offset the loss of Prime Farmland would mitigate the loss caused by the proposed project. However, such a measure would be unreasonably costly and inefficient and would, therefore, be infeasible.

***Impact AG-6: Conflict with Agricultural Uses on Nearby Properties and Long-Term Conversion of Farmland to Non-Agricultural Use. (City of Modesto facilities)***

Additionally, expansion of the MRWTP would not directly cause adjacent agricultural lands to be converted to non-agricultural uses. However, the Proposed Project is intended to facilitate the build-out of the City's General Plan. As such, it would indirectly contribute to the conversion of the agricultural lands that currently exist in the City's sphere of influence. The City's General Plan MEIR (City of Modesto 2003) identified this conversion as significant and unavoidable.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of MID facilities, selected from two MRWTP expansion options. As mitigation, the City incorporated several measures into its 2003 General Plan to reduce this potential impact, including:

1. Agriculture Policies – Baseline Developed Area
  - a. If a subsequent project is within the Baseline Developed Area or Redevelopment Area as identified on the General Plan Growth Strategy Diagram...the project shall be considered to have minimal effect on the conversion of agricultural lands, and no mitigation for that impact is required.
2. Agriculture Policies – Planned Urbanizing Area
  - a. The City will not annex agricultural land unless urban development consistent with the General Plan has been approved by the City.
  - b. The City shall support the continuation of agricultural uses on lands designated for urban uses until urban development is imminent.

- c. Where necessary to promote planned City growth, the City shall encourage development of those agricultural lands that are already compromised by adjacent urban development or contain property required for the extension of infrastructure or other public facilities, before considering urban development on agricultural lands that are not subject to such urban pressures.
- d. The General Plan should attempt to minimize the loss of agricultural land by having future development be relatively compact and of reasonably high density.

These measures will partially mitigate potential impacts to the long-term indirect conversion of farmland to non-agricultural uses. However, implementation of these measures would not fully mitigate this long-term impact to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

***Cumulative Long-Term Impacts on Regional Agriculture. (All facilities)***

Over the foreseeable future, development is expected to continue in Stanislaus County, with the bulk of the area's population growth—and hence the bulk of the County's new construction—centered in the vicinity of Modesto, which is expected to continue as the largest city in the County. Continuing development is expected to result in progressive loss of agricultural lands as agricultural open space is converted to suburban/urban residential, commercial, and light industrial uses. Although this loss is identified in both the City's and County's General Plans, it nonetheless represents a significant cumulative impact on agricultural resources and agricultural production in Stanislaus County.

The Proposed Project would result in direct loss of agricultural lands and could also contribute to indirect loss of agricultural lands over time. The MRWTP expansion would not take place on prime farmland or land under Williamson Act contract; however, alternative sites N-1, N-2, N-3, W-2, and W-3 are all located on Prime Farmland, and sites N-2, N-3, and W-2 are presently under Williamson Act contracts. Construction of the City facilities could thus result in the conversion of as much as 10 acres of prime farmland and Williamson Act lands, should these sites be selected. This would constitute a cumulatively considerable contribution to significant regional impacts on agricultural resources, and would be exacerbated by further long-term indirect effects that could result from conflict between new, nonagricultural uses and remaining agricultural production. Mitigation Measure AG-4, as set forth above and in the FSEIR is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This cumulative impact is the result of both City of Modesto facilities,

selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options.

As discussed in the FSEIR, contribution to the California Farmland Conservancy fund or an equivalent program that supports farmland preservation projects in the County would offer an avenue to compensate for the loss of farmland resulting from construction of project facilities. However, it would not fully offset the direct loss of prime farmland on the project sites. Alternatively, farmland could be restored or recovered from existing urban uses to offset the project-related loss, but this would be extremely costly, and would not offer guaranteed success – construction typically alters site drainage and removes or impairs topsoil resources, and restoration of these values would be difficult at best. Moreover, even if successful, farmland recovery would likely create isolated parcels of agricultural land in a predominantly urban area, and thus would not adequately offset the loss of contiguous agricultural lands. Consequently, although at least two approaches would offer partial compensation, no feasible mitigation is available to reduce the cumulative effect on agricultural resources, or to mitigate the proposed project's contribution to a less-than-significant level. The proposed project's contribution to this cumulatively significant impact is and will remain considerable, long-term and unavoidable.

## Air Quality

### ***Impact Air-1: Temporary Increase in Construction-Related Emissions During Construction Activities of the MRWTP Expansion. (MID facilities)***

Proposed construction of the MRWTP Expansion would increase fugitive dust and vehicle emissions. Specifically, excavation, grading, and vehicular traffic may generate temporary increases in ROG, NO<sub>x</sub>, PM10, and ozone precursors. The SJVUAPCD considers PM10 emissions to be the greatest pollutant of concern when assessing construction-related air quality impacts. The environmental commitments may not eliminate all air quality effects and could therefore cause a significant impact because of the area's current non-attainment and serious non-attainment designations for PM10, and serious non-attainment and extreme non-attainment designations for ozone from the State of California and the EPA, respectively.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of MID facilities, selected from two MRWTP expansion options. Construction of the Proposed Project will necessarily involve excavation, grading, the use of heavy machinery, and vehicular traffic. Eliminating one or more of these activities would be infeasible in that it would prevent construction of the project.

Environmental Commitments AQ-1, AQ-2, GC-3, GC-6, GC-7, and GC-10, as described in the FSEIR, have been incorporated into the Project and will reduce

construction-related effects by compliance with SJVUAPCD Regulation VIII, equipment maintenance, landscaping and erosion control, dust suppression, and maintenance of roadway surfaces and community facilities. Implementation of these measures will partially mitigate potential impacts to air quality. However, implementation of these measures would not fully mitigate this impact to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

***Impact Air-2: Emissions During Operation of Standby Generators. (MID facilities)***

Standby diesel generators would be employed to provide a backup power supply for the pump stations in the event of an interruption in the facility's primary power supply. Although the generators would see limited use for periodic maintenance cycling of the equipment and infrequent short-term emergency operations, they would cause a significant and unavoidable impact due to the fact that they would generate PM10 and ozone precursors, both of which are designated at varying levels of non-attainment at both the federal and state level.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of operation of MID facilities, selected from two MRWTP expansion options. Under normal operations, the system relies on electric power to run its pumps and other facilities. The diesel generators are specifically needed to provide an orderly shut down of the plant in situations where electric power has been lost. There is no other practical power source for emergency use. For example, installing electric rather than diesel generators is not feasible, as the electric generators would be inoperable in the event of a power failure. There is no feasible mitigation to reduce this impact to a less than significant level and, therefore, this impact is significant and unavoidable.

***Impact Air-4: Growth-Related Vehicle Emissions. (MID facilities)***

An objective of this project is to increase the water treatment to meet future water demands from a growing population. Therefore this project is supporting growth in Modesto by increasing the treated water supply. In conjunction with this population growth, the number of vehicles operated in the Modesto area will also increase and will likely lead to an increased emission of air quality pollutants. Because of the area's current designations of non-attainment for PM10 and ozone, this increase in vehicle use and the resulting emissions of air quality pollutant emissions would cause a significant and unavoidable indirect impact.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of MID facilities, selected from two MRWTP expansion options. The City's 2003 General Plan and General Plan MEIR contain a number of policies and measures designed to reduce vehicle trips, and therefore potential growth-related vehicle emissions. These measures include, among other things, increasing mass transit, incentives for ridesharing, and investments in bike and walking trails. These measures may partially mitigate potential impacts caused by growth-related vehicle emissions.

However, implementation of these measures would not fully mitigate this impact to a less-than-significant level. Accordingly, notwithstanding the implementation of these measures, this impact would remain significant and unavoidable.

***Impact Air-5: Temporary Increase in Construction-Related Emissions During Construction Activities of the City of Modesto Facilities. (City of Modesto facilities)***

Proposed construction of City of Modesto facilities would increase fugitive dust and vehicle emissions. Specifically, excavation, grading, and vehicular traffic at proposed tank sites, associated tank pipelines, and main pipeline alignments may generate temporary increases in ROG, NO<sub>x</sub>, PM<sub>10</sub>, and ozone precursors. The SJVUAPCD considers PM<sub>10</sub> emissions to be the greatest pollutant of concern when assessing construction-related air quality impacts. The environmental commitments may not eliminate all air quality effects and could therefore cause a significant impact because of the area's current non-attainment designations for PM<sub>10</sub> and ozone. Thus, this impact would be considered significant and unavoidable.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Construction of the Proposed Project will necessarily involve excavation, grading, the use of heavy machinery, and vehicular traffic. Eliminating one or more of these activities would be infeasible in that it would prevent construction of the project.

Environmental Commitments AQ-1, AQ-2, GC-3, GC-6, GC-7, and GC-10, as described in the FSEIR, have been incorporated into the Project and will reduce construction-related effects by compliance with SJVUAPCD Regulation VIII, equipment maintenance, landscaping and erosion control, dust suppression, and maintenance of roadway surfaces and community facilities. Implementation of these measures will partially mitigate potential impacts to air quality. However, implementation of these measures would not fully mitigate this impact to a less than significant level. Accordingly, notwithstanding the implementation of the mitigation measures described above, this impact would remain significant and unavoidable.

***Impact Air-6: Emissions During Operation of Standby Generators. (City of Modesto facilities)***

Operation of standby diesel generators would be employed to provide a backup power supply for the pump stations in the event of an interruption in the facility's primary power supply. Although the generators would see limited use for periodic maintenance cycling of the equipment and infrequent short-term emergency operations, they would cause a significant and unavoidable impact due to the fact that they could generate PM<sub>10</sub> and ozone precursors, both of

which are designated at varying levels of non-attainment at both the federal and state level.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Standby generators are necessary for the reliable, continuous operation of the Proposed Project. Under normal operations, the system relies on electric power to run its pumps and other facilities. The diesel generators are specifically needed to ensure continuous operations during situations where electric power has been lost. There is no other practical power source for emergency use. For example, installing electric rather than diesel generators is not feasible—the electric generators would be inoperable in the event of a power failure. There is no feasible mitigation to reduce this impact to a less than significant level and, therefore, this impact is significant and unavoidable.

***Impact Air-8: Growth-Related Vehicle Emissions. (City of Modesto facilities)***

An objective of this project is to increase the water treatment to meet future water demands from a growing population. Therefore this project is supporting growth in Modesto by increasing the treated water supply. In conjunction with this population growth, the number of vehicles operated in the Modesto area will also increase and will likely lead to an increased emission of air quality pollutants. Because of the area's current designations of nonattainment for PM10 and ozone, this increase in vehicle use and the resulting emissions of air quality pollutant emissions would cause a significant and unavoidable impact.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments.

The City's 2003 General Plan and General Plan MEIR contain a number of policies and measures designed to reduce vehicle trips, and therefore potential growth-related vehicle emissions. These measures include, among other things, increasing mass transit, incentives for ridesharing, and investments in bike and walking trails. These measures may partially mitigate potential impacts caused by growth-related vehicle emissions. However, implementation of these measures would not fully mitigate this impact to a less-than-significant level. Accordingly, notwithstanding the implementation of these measures, this impact would remain significant and unavoidable.

***Cumulative Short-Term Construction Impacts. (All facilities)***

Operation of the Proposed Project would generate minimal increases in pollutant emissions, primarily associated with infrequent cycling of the standby generators, and a small additional amount of periodic emissions that would be generated by

vehicles used in maintenance and inspection visits. The project's principal direct contribution to cumulative regional air quality issues would likely occur during construction. The construction of project facilities would have the potential to result in increased local generation of PM10 (including PM2.5); ozone precursors in gasoline and diesel vehicle exhaust; and carcinogenic particulates in diesel exhaust. While implementation of environmental commitments and mitigation measures will reduce cumulative air quality impacts, they are not anticipated to entirely eliminate the project's contribution to cumulative effects on air quality in the San Joaquin Valley—specifically to identified problems with PM10 and ozone levels—and the Proposed Project's contribution to this cumulatively significant impact is considerable, short-term, and unavoidable.

*Findings: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.* This cumulative impact is the result of both City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options. Construction of the Proposed Project will necessarily involve excavation, grading, the use of heavy machinery, and vehicular traffic. Eliminating one or more of these activities would be infeasible in that it would prevent construction of the project.

Environmental Commitments AQ-1, AQ-2, GC-3, GC-4, GC-5, GC-6, GC-7, and GC-10, as described in the FSEIR, have been incorporated into the Project and will reduce the potential pollutant emissions by SJVUAPCD Regulation VIII compliance, equipment maintenance, landscaping and erosion control, dust suppression, and roadway surfaces and community facilities maintenance. In addition, Mitigation Measures CUME1 and CUME2, as described in the FSEIR, are hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program:

To provide more stringent control of project-related PM10 emissions, *Mitigation Measure CUME1* will require construction contractors to implement the SJVUAPCD's optional and enhanced PM10 control measures. MID and the City will both be responsible for implementing this mitigation. To address the project's contribution to cumulative ozone levels in the San Joaquin Valley, *Mitigation Measure CUME2* will require construction contractors to implement additional measures to reduce emissions of combustion byproducts. MID and the City will both be responsible for implementing this mitigation.

While implementation of Environmental Commitments AQ-1, AQ-2, GC-3, GC-4, GC-5, GC-6, GC-7 and GC-10, and mitigation measures CUME1 and CUME2 will reduce cumulative air quality impacts, they are not anticipated to entirely eliminate the project's contribution to cumulative effects on air quality in the San Joaquin Valley -- specifically to identified problems with PM10 and ozone levels -- and therefore the proposed project's contribution to this cumulatively significant impact is considerable, short-term, and unavoidable.



## Population and Housing

### ***Impact POP-2: Substantial Induction of Growth in the City of Modesto. (All facilities)***

The Proposed Project would remove a primary obstacle to future growth within the City of Modesto, namely, a reliable source of water supply. For this reason, the project is considered to be growth inducing. The growth associated with the project would be in accordance with the City's General Plan, which also found growth to be significant and unavoidable. It bears noting that CEQA does not consider growth to be either a positive or negative impact (State CEQA Guidelines Section 15126.2); also, the project would not result in disorderly growth, as it is being conducted in accordance with the City's General Plan.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This impact is the result of both City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options. Construction of the Proposed Project will remove barriers to urban growth resulting from water supply and supply reliability. No feasible mitigation is available to reduce the impact to a less-than-significant level. Therefore, this impact will remain significant and unavoidable.

## Noise

### ***Cumulative Short-Term Construction Impacts. (City of Modesto facilities)***

Construction of project facilities would generate some level of equipment and traffic noise. Project construction noise would be reduced to the extent feasible by best management practices (BMPs) incorporated in the project, and is not expected to be incrementally significant. However, it could represent a cumulatively considerable contribution to regional noise levels in the City of Modesto. Overall, the Proposed Project's contribution to this cumulatively significant impact is considerable, short-term, and unavoidable.

***Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the FSEIR.*** This cumulative impact is the result of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Construction of the Proposed Project will necessarily involve excavation, grading, the use of heavy machinery, and vehicular traffic. Eliminating one or more of these activities would be infeasible in that it would prevent construction of the project.

Environmental Commitments NR-1, NR-2, and NR-3, as described in the FSEIR, have been incorporated into the Project and will reduce construction noise

impacts by employing noise-reducing construction practices, preparing a detailed Noise Control Plan, and notifying adjacent residences of construction scheduling. Implementation of these measures will partially mitigate potential noise impacts. However, implementation of these measures would not fully mitigate this impact to a less than significant level. Accordingly, notwithstanding the implementation of these mitigation measures, construction-related noise impacts will remain significant and unavoidable.

## Findings Regarding Significant Impacts Mitigated to Less-Than-Significant Levels

The MID Board and City Council have determined that, for the following impacts, mitigation measures included in the FSEIR will mitigate the effects of the Proposed Project to a less-than-significant level.

As lead agencies on the MRWTP Phase Two Expansion Project, MID and the City are both making the following findings.

### Water Resources

#### ***Impact WR-12: Water Quality Impacts from Increased Drainage. (City of Modesto facilities)***

The proposed tank sites are expected to result in small amounts of increased runoff from the water storage tank areas because of increased amounts of impervious surfaces. The Proposed Project could increase non-storm and storm water runoff, transporting contaminants to adjacent receiving surface waters or groundwater. Anticipated runoff contaminants associated with the Proposed Project include sediment, oil and grease, metals, bacteria, and trash. These contaminants could occur at any of the proposed tank sites. While on-site storage of storm drainage and tank overflows in retention basins will attenuate peak storm flows, all flows may be ultimately discharged to surface water bodies, primarily MID canals.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. The following mitigation measures, as set forth in the FSEIR, are hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program.

***Mitigation Measure WR-12a:*** Require regular street sweeping to reduce contaminants entering stormwater runoff. The City of Modesto will be responsible for implementing this mitigation.

**Mitigation Measure WR-12b:** Require implementation of best management practices (BMPs) on the reservoir tank sites during project operation to improve stormwater quality. The City of Modesto will be responsible for implementing this mitigation.

**Mitigation Measure WR-12c:** Require appropriate design of retention facilities to minimize contaminants during infiltration. The City of Modesto will be responsible for implementing this mitigation.

Implementation of Mitigation Measures WR-12a, WR-12b, and WR-12c will reduce this water quality impact to a less-than-significant level by intercepting contaminants before they enter the storm drain system.

## Cultural Resources

### ***Impact CR-1: Disturbance to Previously Undiscovered Archaeological Resources. (All facilities)***

No archaeological resources were located on any part of the MRWTP site or water storage tank sites. Because the tank and main pipeline alignments, as well as the control valve facilities, would be located generally along paved street rights-of-way and other public lands, no archaeological resources were identified on any part of these sites. However, boring the main pipelines under Dry Creek, and potentially through Beard Brook Park in the Southern alignment along Oregon Drive, may result in uncovering of buried, previously undiscovered archaeological resources. During excavation, earth-moving, and construction activities on any site, there is a potential for discovery of subsurface archaeological resources that are unknown due to a lack of a surficial component.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of both City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options. The following mitigation measure, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program:

***Mitigation Measure CR-1:*** Stopping of work and adoption of appropriate treatment measures if archeological resources are found. MID and the City will both be responsible for implementing this mitigation.

Implementation of Mitigation Measure CR-1 will ensure that cultural resources are protected and preserved, and thereby reduce this cultural resources impact to a less-than-significant level.

***Impact CR-2: Disturbance to Previously Undiscovered Human Remains. (All facilities)***

No known human remains would be impacted as a result of grading or construction at the MRWTP site, water storage tanks, tank pipelines, control valves, and main pipelines. However, the possibility exists for the disturbance of previously unknown human remains below the ground surface. Ground-disturbing activities have the potential to adversely affect unknown archaeological resources, including human remains.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of both City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options. The following mitigation measure, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation and Reporting Program:

***Mitigation Measure CR-2:*** Implementation of specific treatment measures if human remains are found. MID and the City will both be responsible for implementing this mitigation.

Implementation of Mitigation Measure CR-2 will ensure that cultural resources are protected and preserved, and thereby reduce this impact on potential, unknown burials to a less-than-significant level.

***Impact CR-4: Disturbance to Cultural Resources within Archaeological Resources Zones. (All facilities)***

Portions of the Yosemite Boulevard, M&ET Railroad, and Oregon Road portions of the Proposed Project are located within archaeological resource zones as defined in the City of Modesto General Plan (1995). These areas are sensitive due primarily to their location near perennial sources of water. Because these areas are particularly sensitive for cultural resources, it is more likely that disturbance to significant cultural resources may occur. Any disturbance to or destruction of significant cultural resources would be considered a significant impact.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of both City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments, and MID facilities, selected from two MRWTP expansion options. The following mitigation measures, as set forth in the FSEIR, are hereby adopted and will be implemented as provided in the Mitigation and Reporting Program:

***Mitigation Measure CR-4a:*** Require cultural resources surveys to be conducted in archaeological resources zones prior to construction. MID and the City will both be responsible for implementing this mitigation.

***Mitigation Measure CR-4b:*** Require preparation of a Cultural Resources Treatment Plan. MID and the City will both be responsible for implementing this mitigation.

Implementation of Mitigation Measures CR-4a and CR-4b will ensure that cultural resources are protected and preserved, thereby will reduce this cultural resources impact to a less-than-significant level.

## Biological Resources

### ***Impact BIO-2: Potential Loss or Disturbance of Elderberry Shrubs that Provide Habitat for the Valley Elderberry Longhorn Beetle. (City of Modesto facilities)***

A total of six elderberry shrubs that could provide suitable habitat for valley elderberry longhorn beetle (VELB) were identified at Tank Sites S-2 and S-3 and near Dry Creek along the Southern main pipeline alignments. The six elderberry shrubs occur within 100 feet of the project features and could be directly and/or indirectly affected by construction activities. Possible direct effects include removal of shrubs during construction. Possible indirect effects on VELB habitat include dust accumulation on elderberry shrubs from ground-disturbing activities, changes in hydrology around elderberry shrubs, and removal of associated woodland species that could result in the subsequent death of the elderberry shrubs and loss of VELB habitat. USFWS considers any ground-disturbing activity within 100 feet of an elderberry shrub within the range of VELB an adverse effect.

***Finding:*** *Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.* This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. The following mitigation measures, as set forth in the FSEIR, are hereby adopted and will be implemented as provided in the Mitigation and Reporting Program:

***Mitigation Measure Bio-2a:*** Requires preconstruction surveys for valley elderberry longhorn beetle (VELB) and avoidance or compensation for loss of habitat. The City of Modesto will be responsible for implementing this mitigation.

***Mitigation Measure Bio-2b:*** Requires avoidance of VELB habitat with a 100-foot buffer from elderberry plants. The City of Modesto will be responsible for implementing this mitigation.

**Mitigation Measure Bio-2c:** Requires transplantation of elderberry plants that cannot be avoided during construction. The City of Modesto will be responsible for implementing this mitigation.

Implementation of Mitigation Measures Bio-2a, Bio-2b, and Bio-2c will ensure that VELB habitat will be preserved and protected, and thereby reduce this biological resources impact to a less-than-significant level.

**Impact BIO-3: Loss of Foraging Habitat for Swainson's Hawk, White-tailed Kite, and other Special-Status and Non-Special-Status Migratory Birds and Raptors. (City of Modesto facilities)**

Construction activities that occur in nonnative annual grassland, irrigated pasture, and open agricultural fields could result in the permanent loss of up to 15 acres of potential foraging habitat for Swainson's Hawks, White-tailed Kites, Northern Harriers, and Loggerhead Shrikes and non-special-status migratory birds and raptors. Potential construction on all nine tank sites may comprise removal of foraging habitat for special-status raptors, which is considered a potentially significant impact. DFG identifies permanent loss of foraging habitat within a 10-mile radius of a known Swainson's Hawk nest site as a significant impact on Swainson's Hawk and its developing young (California Department of Fish and Game 1994). Eight Swainson's Hawk nest sites have been previously recorded by DFG (CNDDDB 2004) within 10 miles of the project site.

**Finding:** *Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.* This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. The following mitigation measure, as set forth in the FSIER, is hereby adopted and will be implemented as provided in the Mitigation and Reporting Program:

**Mitigation Measure Bio-3:** Requires biological determination as to whether the site constitutes foraging habitat for Swainson's Hawks and, if so, preconstruction surveys for Swainson's Hawks nests within a 10-mile radius of the site. The City of Modesto will be responsible for implementing this mitigation.

Implementation of Mitigation Measure Bio-3 will ensure that foraging habitat for Swainson's Hawk will be preserved and thereby reduce this biological resources impact to a less-than-significant level.

**Impact BIO-4: Potential Disturbance of Nesting Swainson's Hawks. (City of Modesto facilities)**

If Swainson's Hawks are nesting within 0.5 mile of any of the proposed facility locations, noise generated from construction activities occurring during the breeding season (generally between March 1 and August 15) could cause the disturbance of nesting birds and result in nest abandonment and loss of eggs or nestlings. Take of Swainson's Hawk, a state-listed threatened species, incidental

to otherwise lawful activities (as defined under the California Endangered Species Act [CESA]), would be considered an adverse impact (through loss of eggs or young) on Swainson's Hawk, and would be a violation of California Fish and Game Code Section 2081 and the Migratory Bird Treaty Act (MBTA).

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. The following mitigation measure, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program:

***Mitigation Measure Bio-4:*** Requires preconstruction surveys for nesting Swainson's Hawks, and implementation of DFG Guidelines for Swainson's Hawks, if necessary. The City of Modesto will be responsible for implementing this mitigation.

Implementation of Mitigation Measure Bio-4 will ensure that nesting hawks within five miles of the project site will not be disturbed and therefore reduce this biological resources impact to a less-than-significant level.

***Impact BIO-5: Loss of Western Burrowing Owl Nesting and Foraging Habitat. (City of Modesto facilities)***

Construction activities in nonnative annual grassland and agricultural areas would result in the loss of approximately 15 acres of habitat for Burrowing Owl nesting and foraging habitat. If Burrowing Owls are nesting at or within 250 feet from the project facilities, grading and excavation activities could result in the removal of an occupied Burrowing Owl breeding or wintering burrow site or loss of Burrowing Owl adults, young, or eggs, this impact would be considered potentially significant because construction could result in a substantial adverse effect on a special-status species, and would violate the MBTA and Section 3503.5 of the California Fish and Game Code.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. Mitigation Measure Bio-5 will be implemented by the City of Modesto to reduce the impact to a less-than-significant level. The following mitigation measure, as set forth in the FSEIR, is hereby adopted and will be implemented as provided in the Mitigation Monitoring and Reporting Program:

***Mitigation Measure Bio-5:*** Requires preconstruction surveys for active Burrowing Owl burrows, and implementation of DFG guidelines for Burrowing

Owl mitigation, if necessary. The City of Modesto will be responsible for implementing this mitigation.

Implementation of Mitigation Measure Bio-5 will protect Burrowing Owl Nesting and Foraging Habitat and will thereby reduce this biological resources impact to a less-than-significant level.

## Transportation

### ***Impact TR-4: Temporary Traffic Increases and Potential for LOS Degradation during Construction of Tank and Main Pipelines. (City of Modesto facilities)***

The construction of tank and main pipelines would generate traffic consisting of arrival and departure of construction vehicles and equipment, daily commutes by construction workers, and periodic delivery and removal of materials. In addition, the closure of lanes or detouring of traffic would increase delays and congestion. Disruption of roadway traffic conditions would occur along roadways and at intersections. Assuming that 175 feet of pipeline would be installed daily, this disruption would persist 1 to 2 weeks for the shorter tank pipelines and 20 to 25 weeks along the longer main pipelines. Installation of the main pipelines would involve construction activities that could increase traffic or decrease capacity to the point where level of service may approach or exceed established local thresholds. Decreased capacity could result from narrowing or closing roadways. Increased traffic could result from construction vehicles using the roadway or from traffic that has been detoured from adjacent roadways. This effect is more likely and would be more severe at roadway segments and intersections already at or near the established thresholds. This impact applies to all tank and main pipeline alignments.

***Finding: Changes or alterations required in or incorporated into the Proposed Project will avoid or substantially lessen the above-described significant environmental effect, as identified in the FSEIR.*** This potential impact is the result of construction and operation of City of Modesto facilities, selected from nine alternative tank sites and seven alternative main pipeline alignments. The following mitigation measures, as set forth in the FSIER, are hereby adopted and will be implemented as provided in the Mitigation and Reporting Program:

Environmental Commitment TC-1, as described in the FSEIR, will mitigate impacts through development and implementation of a Congestion Traffic Control Plan.

Mitigation Measure TR-4, as described in the FSEIR, will reduce potential construction impacts by maintaining through-traffic lanes and limiting hours of construction. The City of Modesto will be responsible for implementing this mitigation.



Implementation of Mitigation Measure TR-4 will ensure that minimum LOS standards, as required by the City's 2003 General Plan, are maintained even during temporary periods of construction and will thereby reduce construction traffic impacts to a less-than-significant level.

## Section 3

# Alternatives Considered

## Introduction

An EIR must describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly obtain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant environmental effects of the project, and evaluate the comparative merits of the alternatives. Even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-maker may reject the alternative if it determines that specific considerations make the alternative infeasible. This section contains brief descriptions of the project alternatives for the Proposed Project that were evaluated in the 1990 MRWTP EIR and the MRWTP Phase Two Expansion Project SEIR. The SEIR addresses alternatives specific to the MRWTP Phase Two Expansion Project that would attain most of the basic project objectives. The findings with respect to alternatives identified in the FSEIR are described below.

## Summary of Alternatives

Two alternative MRWTP expansion options, nine alternative locations for the water storage tanks, and seven alternative pipeline alignments, as well as a No Project Alternative and a Delayed Alternative, were evaluated. The evaluation fulfills the CEQA requirement to analyze alternatives for the Proposed Project.

Several alternatives associated with the expansion of the MRWTP were previously analyzed in the 1990 EIR. These included four primary alternatives, several with multiple sub-alternatives, and a No Project Alternative. Primary characteristics of the alternatives included alternate treatment plant locations and methods of conveying water from Don Pedro Reservoir to the treatment plant. There are no changed circumstances that make feasible any alternatives previously identified as unfeasible, or substantially change the conclusions of the No Project analysis provided in the 1990 EIR. For these reasons, these alternatives were not revisited in the SEIR.

## 1990 EIR Alternatives

The 1990 EIR for the construction of the MRWTP Phase One considered the following project alternatives:

- **No Project:** The alternative assumed continued reliance on groundwater to fulfill all of Modesto's water demands.
- **Alternative A:** Obtain untreated water directly from Modesto Reservoir. This alternative considered four different water treatment plant sites near Modesto Reservoir (Sites A1, A2, A3, and A4).
- **Alternative B:** Locate the water treatment plant on the east side of Modesto, and convey untreated water from Modesto Reservoir to the plant via the MID Main Canal and Lateral 1.
- **Alternative C:** Locate the water treatment plant several miles northeast of Modesto, and convey untreated water via the MID Main Canal.
- **Alternative D:** Locate the water treatment plant on the east side of Modesto (in the same location as Alternative B), and divert water directly from the Tuolumne River downstream of don Pedro Reservoir. Water releases would use one of three options:
  - **Alternative D1:** No project water would be released as long as the river flow at the diversion point near Modesto was adequate to meet project demands, considering instream flow requirements. Water would be released from Don Pedro Reservoir as necessary to meet project demands.
  - **Alternative D2:** Project water would be diverted from Don Pedro Reservoir to the Modesto Reservoir, released to the Main Canal, and then released into the Tuolumne River at Poletti Spill, east of Waterford.
  - **Alternative D3:** Project water would be released from Don Pedro Reservoir directly into the Tuolumne River in an amount equivalent to that diverted to the water treatment plant.

Alternative A was the alternative that was eventually built in Phase One due to its proximity to Modesto Reservoir, a high-quality water source. This approach required less treatment and fewer miles of open-water laterals than other alternatives.

Although the 1990 EIR considered the above Alternatives for construction of the MID facilities, there are no changed circumstances that make feasible any alternatives previously identified as infeasible, or substantially change the conclusions of the analysis of the No Project Alternative in the 1990 EIR.

## No Project Alternative

Under the No Project Alternative, expansion of the MRWTP would not occur, and downstream City facilities would not be constructed. The City would continue to rely on the groundwater and treatment capacity of the Phase One MRWTP, and would require the continued reliance on only the existing downstream water conveyance facilities. The City would likely install additional groundwater wells for this purpose. The No Project Alternative would not result in the construction of additional water storage tanks within the City.

*Findings: Specific economic, legal, social or other considerations make this project alternative infeasible.* Under the No Project alternative, neither the proposed MID or City facilities would be built. Therefore the impacts described in the Biological Resources, Geology, Soils and Mineral Resources, Hazards and Hazardous Materials, Recreation, and Transportation and Traffic sections of the FSEIR would not occur.

The No Project alternative would not avoid visual or noise impacts as the construction of additional groundwater wells could have a potentially significant impact on the visual quality of surrounding areas and would require additional pumps, both of which could require some level of mitigation in order to reduce impacts. Nor would it avoid the potential impacts, and need for mitigation, associated with fugitive dust and emissions due to construction activities. Under the No Project alternative, the City would continue to develop in accordance with its General Plan and, therefore, the potential growth-related impacts such as the conversion of Prime Farmland to non-agricultural uses, conflicts with agricultural uses on nearby properties, long-term conversion of farmland to non-agricultural use, potential degradation of cultural resources, land use planning conflicts, and increases in population and housing would still occur.

The No Project alternative could result in other significant impacts to water resources, water quality, hydrology and water supply.

The No Project Alternative would fail to satisfy the following objectives of the Project, as identified in the FSEIR:

- Manage the water resources of MID to provide a safe, reliable and sustainable supply for MID's agricultural and urban customers
- Put MID's water rights to beneficial use for the benefit of the residents of MID
- Improve water supply reliability for the City
- Increase operational flexibility and reliability in the City's water transmission and distribution system
- Develop a more comprehensive conjunctive use system for domestic water treatment and delivery, and reduce the City's reliance on groundwater

Based on the foregoing, the City and MID find that, on balance, the Project is preferable to the No Project Alternative and that the No Project Alternative is not a feasible alternative to the Project as that term is defined in CEQA.

## Delayed Alternative

Under the Delayed Alternative construction of the project would be delayed indefinitely. In general, problems related to water pressure and operational reliability in the City's system would continue indefinitely until construction occurred. Development in the City of Modesto could be constrained if adequate water supplies or pressures were not available. The City may need to seek out alternative sources of water supply, which could include increased groundwater pumping.

**Findings: Specific economic, legal, social or other considerations make this project alternative infeasible.** Under the Delayed Alternative, the construction of facilities would still occur but would be delayed indefinitely. Many of the impacts of the facilities would be delayed indefinitely until such time as construction occurs and therefore would not be avoided. The impacts described in the Biological Resources, Geology, Soils and Mineral Resources, Hazards and Hazardous Materials, and Recreation sections of the FSEIR would remain the same.

However, the City is anticipated to grow which will bring additional traffic and sensitive receptors in closer proximity to the sites on which the facilities will be located. The increases in population and changes in land use which will occur during this delay period could result in additional impacts in the areas of Aesthetics, Land Use Planning, Noise, Air Quality, and Transportation and Traffic as a result of increased conflicts between urban development and the construction and operation of planned facilities. In addition, the costs of constructing these facilities are expected to increase significantly over time.

Under the Delayed Project alternative, the City's would continue to develop in accordance with its General Plan and, therefore, the potential growth-related impacts such as the conversion of Prime Farmland to non-agricultural uses, conflicts with agricultural uses on nearby properties, long-term conversion of farmland to non-agricultural use, potential degradation of cultural resources, land use planning conflicts, and increases in population and housing would still occur. However, they may occur at a slower pace due to potential delays or constraints associated with the development of additional groundwater sources.

The Delayed Project alternative, could result in other significant impacts to water resources, water quality, hydrology and water supply for the same reasons as set forth under the No Project alternative, above.

The Delayed Project Alternative would fail to satisfy the following objectives of the Project, as identified in the FSEIR:

- Manage the water resources of MID to provide a safe, reliable and sustainable supply for MID's agricultural and urban customers
- Put MID's water rights to beneficial use for the benefit of the residents of MID
- Improve water supply reliability for the City
- Increase operational flexibility and reliability in the City's water transmission and distribution system
- Develop a more comprehensive conjunctive use system for domestic water treatment and delivery, and reduce the City's reliance on groundwater
- Use environmentally sensitive and cost-effective means of achieving the above objectives

Based on the foregoing, the City and MID find that, on balance, the Project is preferable to the No Project Alternative and that the No Project Alternative is not a feasible alternative to the Project as that term is defined in CEQA.

## MRWTP Expansion Options

MID has considered two options for expansion of the MRWTP – the conventional option and the membrane option. The membrane option would involve construction of microfiltration or ultrafiltration (MF/UF) membrane treatment process. The conventional option would essentially mirror the existing MRWTP facility. The membrane option would occupy a smaller footprint and have a shorter construction duration, and for this reason would result in a reduced level of construction-related impacts relative to the conventional option. Construction-related impacts include dust generation, vehicle emissions, construction-related traffic, and noise. Although the construction-related air quality impacts would be reduced it would not be reduced to a level of insignificance. It is unclear which option will result in less energy consumption or sludge generation. Based on the foregoing, the City and MID find that, on balance, both MRWTP Expansion Options are consistent with and would achieve all the Project objectives, and therefore constitute feasible alternatives as that term is defined in CEQA. Operational impacts of the MRWTP expansion options were found to be less than significant, with the exception of growth inducement related to build-out of the Modesto Urban Area.

## Alternative Water Storage Tank Sites

The City has considered three areas for water storage tanks, including three alternative sites for each area, and their associated pipelines. The alternatives are summarized below.

## North Tank

The proposed 6-million-gallon (MG) North Tank's primary functions are to serve the existing and future land use areas in the northwestern portions of the City, and to convey water to existing areas in the west portion of the City, east of Highway 99, that have a high concentration of inactive wells. The North Tank would be either partially buried or entirely aboveground. Three sites for the North Tank and three tank pipeline alignments are being considered. The North Tank pipeline would connect the North Tank to MID's transmission system at the turnout connection C9.5 located on Coffee Road.

Site N-1, the environmentally superior alternative, is located on the parcel immediately northeast of the intersection of Bangs Avenue and Tully Road. Site N-2 is located on the parcel immediately southeast of the Bangs Avenue and Tully Road intersection. Site N-3 is located approximately 1 mile east of sites N-1 and N-2, just west of McHenry Avenue along Wells Avenue.

Alternative site N-1 avoids impacts to aesthetics identified for alternative site N-3, and would avoid conflicts with Williamson Act contracts identified for alternative sites N-2 and N-3; however, all three sites would result in the conversion of Prime Farmland to non-agricultural uses. Alternative site N-1 would result in potentially significant impacts to transportation services. However, impacts to traffic would be temporary.

## West Tank

The proposed new 4-MG West Tank would supplement and enhance Tank 6's service area of western and downtown Modesto. The West Tank would be either partially buried or entirely aboveground. Three sites for the West Tank and three pipeline alignments are being considered. The West Tank pipeline would connect the West Tank to the MID trunk line to distribute water from the West Tank into the City's transmission and distribution system.

Site W-1, the environmentally superior alternative, is located immediately adjacent to the western boundary of the existing water storage tank facility site. Site W-2 is located adjacent to MID Lateral No. 4, at the west end of Elm Avenue. Site W-3 is located at the northeast corner of the intersection of South Carpenter Avenue and California Avenue.

Alternative site W-1 would avoid impacts identified for Alternative site W-2 related to conflicts with Williamson Act contracts and conversion of Prime Farmland to non-agricultural use. However, this alternative would result in potentially significant impacts to transportation services, particularly on Carpenter Road where the volume to capacity (V/C) ratio would be higher than Alternatives W-2 and W-3 (V/C for W-1 would be 2.3, versus 2.0 for W-3 and 1.2 for W-2). However, the impacts to traffic would be temporary.

## Southeast Tank

The 4-MG South Tank is proposed to better serve the demands in the southeastern region of the City. Additional storage is required in this area to alleviate low-pressure conditions in this section of the City during high-demand periods and to assist with water service to the Empire Area and the residential area north of Yosemite Boulevard and south of Dry Creek. Three potential sites for the Southeast Tank and one pipeline alignment are being considered. The Southeast Tank pipeline would connect the Southeast Tank to the main transmission and distribution system at turnout connection C02 along Yosemite Boulevard.

Site S-1, the environmentally superior alternative, is located within a rail-shipping yard approximately 1,500 feet east of sites S-2 and S-3. Sites S-2 and S-3 are located adjacent to the MID right-of-way (Lateral No. 1) between existing industrial buildings south of Yosemite Boulevard. Site S-2 is on a linear parcel running north-south from Yosemite Boulevard. Site S-3 is on a parcel extending from Garner Road to the west, Leckron Road to the south, and the MID right-of-way to the north.

Alternative site S-1 would avoid potential impacts identified for Alternative sites S-2 and S-3 related to potential biological impacts. There would be no conflicts with Williamson Act contracts or conversion of Prime Farmland. The V/C ratio for traffic along Yosemite Boulevard would fail level of service criteria. However, impacts on traffic would be temporary.

Based on the foregoing, the City and MID find that, on balance, all of the above potential tank sites are consistent with and would achieve all the Project objectives, and therefore constitute feasible alternatives as that term is defined in CEQA.

## Alternative Main Pipeline Alignments

The City has considered three alternative main pipeline<sup>1</sup> alignments for each water storage tank area. The alternatives are summarized below.

Three pipelines would be built: the East-West main pipeline, the North-South main pipeline, and the Southern main pipeline. Pipelines would be constructed, to the extent feasible, in conjunction with any proposed roadway improvements.

### East-West Main Pipeline

The purpose of the East-West main pipeline is to convey water to the western part of the City, east of Highway 99, from the MID trunk line near Coffee Road.

<sup>1</sup> *Main pipeline* refers to large centralized pipelines.



The two East-West main pipeline alternatives are alignments along Briggsmore Avenue or Orangeburg Avenue. The environmentally superior alternative for the East-West main pipeline is the Orangeburg Avenue alignment.

The Orangeburg alignment would require the shortest construction time. The Orangeburg alignment would require 15 to 16 weeks for construction, while the Briggsmore alignment would require 18 to 19 weeks. A shorter construction period would reduce all construction-related impacts. The Orangeburg alignment also has the smaller construction V/C ratio, 1.1 versus 2.0 from the Briggsmore alignment; therefore it would result in traffic impacts of reduced intensity.

## North-South Main Pipeline

The purpose of the North-South main pipeline is to convey water to the center of the City from the North Tank site. The two North-South main pipeline alternatives are alignments along Virginia Corridor or Tully Road. These alignments vary depending on which alternative North Tank site is selected. The environmentally superior alternative for the North-South main pipeline is the Virginia Corridor alignment.

The Virginia Corridor alignment would require the shortest construction time – 3 to 4 weeks, as opposed to 10 to 11 weeks required for the Tully Road alignment. A shorter construction period would reduce all construction-related impacts. In addition, traffic impacts would be substantially reduced relative to the Tully alignments since the alignment would be primarily located outside the City streets.

## Southern Main Pipeline

The purpose of the Southern main pipeline is to convey water from the 24-inch diameter trunk line at the intersection of Lapham Drive and Mitchell Road to the downtown core of the City at the intersection of 7th Street and B Street. Because of the location of the Gallo Winery property on Yosemite Boulevard, there are three alternative alignments for this distribution line; two encroach upon Gallo property, and one does not. The three Southern main pipeline alternatives are alignments along Yosemite Boulevard, Modesto & Empire Traction (M&ET) Railroad, or Oregon Drive. The environmentally superior alternative for the Southern main pipeline is the Oregon Drive alignment.

The Oregon Drive alignment would reduce all construction-related impacts due to a shorter construction period, compared to the Yosemite Boulevard and Modesto & M&ET Railroad alignments. It would also reduce the traffic impacts relative to the other two alignments due to the greater portion constructed off-road.

Based on the foregoing, the City and MID find that, on balance, all of the above potential pipeline alignments are consistent with and would achieve all the Project objectives, and therefore constitute feasible alternatives as that term is defined in CEQA.



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**MRWTP Phase Two Expansion Project  
Mitigation Monitoring and Reporting Plan**

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# Acronyms and Abbreviations

CEQA	California Environmental Quality Act
FSEIR	final subsequent environmental impact report
MID	Modesto Irrigation District
City	City of Modesto
MRWTP	Modesto Regional Water Treatment Plant
MMRP	Mitigation Monitoring and Reporting Plan
afa	acre-feet annually
SWRCB	State Water Resources Control Board

# Mitigation Monitoring and Reporting Plan

## Purpose of and Need for Monitoring

In compliance with the California Environmental Quality Act (CEQA), a final subsequent environmental impact report (FSEIR) was prepared for Modesto Irrigation District (MID) and the City of Modesto's (City's) Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion Project (Proposed Project). The FSEIR identified potentially significant impacts in the following resource areas. The FSEIR also identified mitigation measures to reduce these impacts to a less-than-significant level, where feasible.

- Aesthetics and Visual Resources
- Agricultural Resources
- Air Quality
- Water Resources
- Noise
- Population and Housing
- Recreation
- Cultural Resources
- Biological Resources
- Transportation

CEQA requires that a lead agency adopt a mitigation monitoring and reporting plan (MMRP) for the revisions the agency has required to a project and the measures it has proposed to avoid or mitigate significant environmental effects (CEQA Guidelines Section 15097). The purpose of the MMRP is to ensure that the project revisions and mitigation measures identified in the FSEIR are implemented and to identify who is responsible for their implementation.

Table 1 of this MMRP, which follows this introductory section, identifies the mitigation measures for the Proposed Project, the parties responsible for implementing and monitoring the mitigation measures, the timing of each mitigation measure, and a summary of the actions necessary to implement and monitor each measure.

Table 2 of this MMRP, which follows Table 1, lists the environmental commitments described as part of Chapter 2, Project Description of the DEIR. Table 2 follows the same format as Table 1 and identifies the parties responsible for implementing and monitoring the environmental commitments, the timing of each environmental commitment, and a summary of the actions necessary to implement each commitment.

## Project Description

The Proposed Project includes two main components:

- Expansion of the MRWTP, which would allow MID to provide an additional 33,600 acre-feet annually (afa) of treated domestic water annually to the City.
- Construction of downstream facilities within the City, including water storage tanks, pump stations, distribution pipelines, and pressure-regulating control valves.

The MRWTP will continue to be owned and operated by MID; the downstream facilities will belong to the City. Water from the MRWTP will continue to be conveyed from the MRWTP near Modesto Reservoir to the City water system through an existing water transmission system constructed as part of the Phase One project.

The water treatment plant expansion will occur on the same parcel as the existing MRWTP site. The MRWTP expansion is substantively similar to the Phase Two expansion described in the 1990 EIR.

Improvements to the City water distribution system will consist of three water storage tanks and related appurtenances, including pump stations, pipelines to connect the water storage tanks to the City's existing distribution infrastructure, up to 30 control valves on turnouts, and three additional main pipelines to move water throughout the City. While most of these project components were identified in the project description in the 1990 EIR, they were not subjected to a site-specific environmental analysis in that document. In this SEIR, nine alternative tank sites and seven alternative main pipeline alignments are considered at an equal level of detail to allow flexibility in ultimate design and construction.

As part of the Proposed Project, MID has filed a petition with the State Water Resources Control Board (SWRCB) for a transfer to the City of 67,200 afa of water. This transfer and the associated facilities described above will supply water in support of current and planned growth within the City of Modesto as envisioned in the City and MID's 2000 *Urban Water Management Plan* (City of Modesto and Modesto Irrigation District 2000),<sup>1</sup> the *City of Modesto Urban Area General Plan* (City of Modesto 1995),<sup>2</sup> and the Master EIR for the City of Modesto General Plan and Related Amendments (City of Modesto 2003).<sup>3</sup>

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<sup>1</sup> City of Modesto and Modesto Irrigation District. 2000. Prepared by Black and Veatch. Modesto, CA.

<sup>2</sup> City of Modesto. 1995. Modesto, CA. Adopted August 1995. Amended March 2003.

<sup>3</sup> City of Modesto. 2003. Prepared for City of Modesto Community and Economic Development Department by Jones & Stokes.

## Mitigation Monitoring Program

This MMRP has been prepared for the Proposed Project in accordance with Public Resources Code 21081.6, which specifies that when a public agency makes findings required by paragraph (1) of subdivision (a) of Section 21081, it "...shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." Public Resources Code 21081.6 further specifies that the MMRP will "...ensure compliance during project implementation."

This MMRP is intended to ensure the effective implementation of mitigation measures that are within MID and the City's authority to implement, including monitoring where identified, throughout all phases of development and operation of the Proposed Project.

MID and the City will designate separate individuals for monitoring implementation of their respective portions of the project.

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Table 1. Mitigation Monitoring and Reporting Plan for MRWTP Phase Two Expansion, Mitigation Measures

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<b>AGRICULTURAL RESOURCES</b>				
<b>Mitigation Measure AG-4: Compensation for Loss of Farmland</b>				
<p>The California Farmland Conservancy Program is established under Public Resources Code Section 10200-10277 to promote the long-term preservation of agricultural lands in California through the use of agricultural conservation easements. In addition to funding provided for agricultural easement acquisition, Conservancy grant funds are available for project which develop policy or planning oriented to agricultural land protection, and for improvements to land already under an agricultural conservation easement (e.g., erosion control, riparian area improvements, etc.). The program is authorized to accept donations from private entities if the Department of Conservation is the designated beneficiary of the donation and it uses the funds for purposes of the program in a county specified by the donor (Public Resources Code Section 10231.5).</p>	<p>Prior to construction on tank sites N-1, N-2, N-3, W-2, or W-3</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>The City shall obtain documentation of contribution to the California Farmland Conservancy or an equivalent program for farmland preservation in Stanislaus County.</p>
<p>The loss of farmland associated with development of tank sites N-1, N-2, N-3, W-2 and W-3 could be partially mitigated through contribution to the Farmland Conservancy Fund, or to an equivalent program for funding farmland preservation in Stanislaus County, as a condition precedent to the issuance of necessary project approvals. The amount of such a contribution would allow the conservation of one acre of farmland in Stanislaus County for each acre of farmland converted by the proposed project, and would reflect the then-current value of an agricultural easement on comparable prime agricultural land of equal size to the acreage of the farmland lost under the proposed project, and a 10% increment for program administration under the Farmland Conservancy Program, or an equivalent program for funding farmland preservation projects in Stanislaus County.</p>				
<p>The valuation of such an easement would be determined by the City in consultation with the California Department of Conservation. Where current information on such valuation is not available, the City would need to obtain an appraisal of the valuation of an agricultural easement on comparable agricultural land in the project vicinity to inform the City's determination as to valuation.</p>				
<p>Contribution to the California Farmland Conservancy, or an equivalent program, to fund farmland preservation projects in Stanislaus County would serve to compensate for the loss of farmland that directly results from the proposed project. However, preservation of Prime Farmland through agricultural easements on other Prime Farmland parcels would not</p>				

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>mitigate the direct loss of Prime Farmland resulting from the project to a less-than-significant level.</p> <p>Restoration and/or recovery of Prime Farmland from existing urban uses to offset the loss of Prime Farmland would mitigate the loss caused by the proposed project. However, such a measure would be unreasonably costly and inefficient and would, therefore, be infeasible.</p>				
<b>WATER RESOURCES</b>				
<p><b>Mitigation Measure WR-12a: Street Sweeping</b></p> <p>To minimize the amount of pollutants entering the storm drain system, water storage tank roadways and other paved areas will be cleaned regularly using street sweeping equipment. Additionally, litter and debris that may accumulate on the project site will be regularly collected and properly disposed of at a landfill in accordance with proper waste disposal procedures. These activities shall be the responsibility of City and/or its contractors.</p>	<p>During project construction and operation on all storage tank sites</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services and Water Superintendent</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services and Water Superintendent</p>	<p>1. During construction, the City shall require that all contractors keep worksite clean from rubbish and debris.</p> <p>2. During project operation, the City shall, not less than annually and prior to the first anticipated storm event, clean paved areas on all water tank sites.</p>
<p><b>Mitigation Measure WR-12b: Best Management Practices to Maximize Storm Water Quality</b></p> <p>BMPs shall be used on the tank sites to maximize storm water quality during project operations. The BMPs shall include a combination of source control and treatment systems, and shall be selected to be consistent with the City’s Comprehensive Stormwater Management Program.</p> <p>BMPs may include but not be limited to the following:</p> <ul style="list-style-type: none"> <li>□ Grass strips, high infiltration substrates, and grassy swales shall be used where feasible throughout the tank sites to reduce runoff, serve as bio-filters, and provide initial storm water treatment. This type of treatment would apply particularly to paved areas.</li> <li>□ Physical devices shall be placed at outlets of pipes and channels to reduce the velocity or the energy of exiting water. Outlet protection helps to prevent scour and to minimize the potential for downstream erosion by reducing the velocity or energy of concentrated storm water flows.</li> <li>□ Pervious/porous pavement shall be used to reduce runoff when economically feasible. The pavement is a unique cement-based</li> </ul>	<p>During project design, construction, and operation on all storage tank sites</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services and Water Superintendent</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services and Water Superintendent</p>	<p>1. During construction and design, the City shall prepare and implement a Stormwater Management Plan that includes BMPs for maximizing storm water quality.</p> <p>2. During project operation, the City shall regularly inspect and maintain the BMPs to ensure that they function properly.</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>concrete product that has a porous structure which allows rainwater to pass directly through the pavement and into the soil.</p> <p>The City and/or its contractors shall select a combination of BMPs that is expected to remove contaminants from storm water discharges. The final selection and design of BMPs shall provide maximum contaminant removal, represent the best available technology that is economically achievable, and shall explicitly identify the expected level of effectiveness at contaminant removal.</p> <p>The City and/or its contractors shall inspect following construction to ensure that all identified BMPs have been properly installed. The project shall adopt a regular maintenance and monitoring schedule to ensure that these BMPs function properly during project operations. If necessary, additional BMPs shall be designed and implemented if those originally constructed do not achieve the identified performance standard.</p>				
<p><b>Mitigation Measure WR-12c: Appropriate Design on Retention Facilities</b></p> <p>All infiltration features shall be constructed to maximize the distance between the base of the infiltration feature and the groundwater table, and in no case shall the bottom of the feature be less than 10 feet above the groundwater table.</p>	<p>During project design and construction on all storage tank sites</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>The City shall design and construct all infiltration features so that the bottom of the feature is not less than 10 feet above the groundwater table.</p>
<p><b>CULTURAL RESOURCES</b></p>				
<p><b>Mitigation Measure CR-1: Stop work, contact qualified archaeologist, assess significance of the find, and develop appropriate treatment measures</b></p> <p>If buried archaeological resources, such as chipped or ground stone, historic debris, building foundations, or human bone, are inadvertently discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the MID, the City, and other appropriate agencies.</p>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall stop work if buried archeological resources are found. A qualified archeologist shall be contacted to assess the significance of the find and develop appropriate treatment measures.</p>



Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p><b>Mitigation Measure CR-2: Stop work, notify county coroner, and notify California Native American Heritage Commission if remains are Native American in origin</b></p> <p>If human remains of Native American origin are discovered during project construction, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Pub. Res. Code Sec. 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:</p> <ol style="list-style-type: none"> <li>a. the coroner of the county has been informed and has determined that no investigation of the cause of death is required; and</li> <li>b. if the remains are of Native American origin,                             <ol style="list-style-type: none"> <li>1. the descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or</li> <li>2. the Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.</li> </ol> </li> </ol> <p>According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100) and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission.</p>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall stop work if human remains of Native American origin are found. The County Coroner and California Native American Heritage Commission shall be contacted.</p>
<p><b>Mitigation Measure CR-4a: Conduct cultural resources surveys in Archaeological Resources Zones prior to construction</b></p> <p>According to Policy 2a, this area should be surveyed for cultural resources prior to proposed development (City of Modesto 1995a). Prior to construction, all project alignments within Archaeological Resources Zones</p>	<p>Prior to construction on pipeline alignments on those portions of Yosemite</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>Prior to construction within Archeological Resources Zones, the City shall require a qualified archeologist to conduct cultural resources</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>will be examined by a qualified archaeologist to determine if any cultural resources are present. Any cultural resources located as a result of surveys will be evaluated for listing in the CRHR. If the resource(s) is found to be significant and eligible for listing in the CRHR, Mitigation Measure CR-4b will be implemented.</p>	<p>Boulevard, M&amp;ET Railroad, or Oregon Drive within Archaeological Resource Zones</p>			<p>surveys.</p>
<p><b>Mitigation Measure CR-4b: Complete a Cultural Resources Treatment Plan</b></p>	<p>Prior to construction on pipeline alignments on those portions of Yosemite Boulevard, M&amp;ET Railroad, or Oregon Drive within Archaeological Resource Zones</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>If archeological resources are found during the cultural resources surveys, the City shall prepare a Cultural Resources Treatment Plan to address data recovery excavations.</p>
<p>If significant resources are found under Mitigation Measure CR-4a, the City will review the pipeline alignment and re-align the portion of the pipe affected or a treatment plan will be prepared prior to onset of construction that will provide detailed research design and methodology for test excavations and archival research to identify and evaluate the resources. The treatment plan will also provide provisions for a complete data recovery excavation. The treatment plan will provide for at least the following activities:</p>				
<p>a. <i>Conduct test excavations and archival research to determine resource significance.</i> When avoidance is infeasible, the treatment plan will outline how evaluations of potentially significant archaeological resources will be conducted, including archival research and test excavation and evaluation methods necessary to determine eligibility for listing in the CRHR.</p>				
<p>b. <i>Data recovery excavations of significant archaeological resources that cannot be avoided.</i> If, following identification and evaluation efforts, archaeological sites and historic resources are determined to meet the criteria for inclusion in the CRHR, and avoidance or redesign of the project is not feasible, then research and fieldwork to recover and analyze the data contained in that site will be conducted. This work may involve additional archival and historical research; excavation; analysis of the artifacts, features, and other data discovered; presentation of the results in a technical report; and curation of the recovered artifacts and accompanying data. Native American consultation will continue throughout data recovery efforts.</p>				
<p>c. <i>Treatment of human remains.</i> The treatment plan will outline the regulatory requirements to be followed when human remains are found</p>				

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
(also described above in regulatory framework) and will indicate where burials might be encountered.				
<b>BIOLOGICAL RESOURCES</b>				
<b>Mitigation Measure Bio-2a: Conduct Preconstruction Surveys for Valley Elderberry Longhorn Beetle and Avoid or Compensate for Loss of Habitat</b>	Prior to construction on tank sites S-2 or S-3, and near Dry Creek along the Southern pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	Prior to construction, the City shall contract with a qualified biologist to survey and document the location of elderberry shrubs. The City shall implement the measures listed in Mitigation Measure BIO-2b or their functional equivalent, as recommended by the qualified biologist.
<p>For any construction activity within 100 feet of the six elderberry shrubs at Tank Sites S-2 and S-3 and near Dry Creek along the Southern main pipeline alignments, the City shall hire a qualified biologist to conduct a preconstruction survey of the alignment corridor and document the extent of habitat for the VELB. The information gathered in this survey would include the number of elderberry stems greater than 1 inch in diameter and the number of emergence holes in these stems for each elderberry shrub encountered. If no VELB habitat is found within 100 feet of a project alignment, then no further mitigation is required.</p>				
<p>The City then would implement the USFWS guidelines for avoiding impacts on the VELB by avoiding construction activities within 100 ft of any elderberry shrub where feasible (Mitigation Measure BIO-2b). Where avoidance is not feasible, the City would obtain authorization from the USFWS pursuant to the ESA, and prepare and implement a mitigation plan consistent with USFWS guidelines to compensate for impacts on the VELB and loss of habitat.</p>				
<p>USFWS guidelines call for avoidance of VELB habitat wherever possible. When avoidance is not possible, the guidelines direct that all elderberry plants be transplanted to an appropriate site when feasible, and that all stems 1 inch or greater in diameter be replaced by planting replacement plants at appropriate locations in the project vicinity determined in consultation with the resource agencies (Mitigation Measure Bio-2c). The replacement ratio depends on the percentage of affected elderberry shrubs that have beetle emergence holes. The guidelines require the project proponent to monitor the transplanted shrubs and replacement plants for 10 years from the date of transplanting to monitor the success of the mitigation efforts, and replacement would be necessary for plants that do not succeed.</p>				

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p><b>Mitigation Measures BIO-2b: Avoid and Protect VELB Habitat</b></p> <p>Complete avoidance is assumed when a 100-foot buffer is established and maintained around elderberry plants containing stems measuring 1 inch or greater in diameter at ground level. Firebreaks may not be included in the buffer zone. In buffer areas, construction-related disturbance should be minimized and any damaged area should be promptly restored following construction. The City shall consult the USFWS before any disturbances within the buffer area are considered. The following measures include establishment and maintenance of a buffer zone:</p> <ul style="list-style-type: none"> <li>❑ The City shall hire a qualified biologist to identify and mark all elderberry shrubs with stems 1 inch or more in diameter within 100 feet of the impact area. A 100-foot buffer will be established around all elderberry shrubs, and no construction activities will be permitted within the buffer zone without consultation with USFWS. In areas where encroachment on the 100-foot buffer has been approved by USFWS, no ground-disturbing activities will be permitted within 20 feet of the dripline of each elderberry shrub unless the activity is necessary to complete the project. If no VELB habitat is found within 100 feet of a project alignment, then no further mitigation is required.</li> <li>❑ Orange fencing will be placed around all shrubs to avoid inadvertent effects.</li> <li>❑ Signs will be erected every 50 feet along the edge of the avoidance area with the following information: “This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs will be clearly readable from a distance of 20 feet, and must be maintained for the duration of construction.</li> <li>❑ The City’s contractor will present an environmental education program to all construction personnel to brief them on the need to avoid damaging the elderberry shrubs and the possible penalty for not complying with these requirements.</li> <li>❑ Any damage done to the buffer area (area within 100 feet of elderberry plants) during construction must be repaired and the area restored. Erosion control must be provided and the area must be revegetated with appropriate native plants.</li> </ul>	<p>During construction on tank sites S-2 or S-3, and near Dry Creek along the Southern pipeline alignments</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>If elderberry shrubs are found within 100 feet of a construction zone, then during construction, the City shall establish a 100-foot buffer around elderberry plants containing stems measuring 1 inch or greater in diameter, where feasible, and implement the measures listed in Mitigation Measure BIO-2b to maintain the buffer zone or their functional equivalent.</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<ul style="list-style-type: none"> <li>❑ Buffer areas must be protected after construction from adverse effects of the project through measures including fencing, signs, weeding, and removing trash.</li> <li>❑ The use of insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant will be prohibited.</li> <li>❑ Grasses or ground cover will be mowed from July through April to reduce fire hazard. No mowing should occur within 5 feet of elderberry plant stems.</li> <li>❑ The City of Modesto must provide a written description of how the buffer areas are to be restored, protected, and maintained after construction is completed.</li> <li>❑ To prevent inadvertent trimming of elderberry shrubs (habitat for VELB) during future maintenance activities, the City will also prepare a Maintenance Plan that provides the location of all elderberry shrubs growing near the water storage tank sites and along the pipeline corridors. The Maintenance Plan will also include a photo and description of an elderberry shrub and information about VELB and its legal status and requirements under ESA.</li> </ul>				
<p><b>Mitigation Measures BIO-2c. Transplant Elderberry Shrubs</b></p> <p>If the proposed project cannot avoid elderberry shrubs by 100 feet (or 20 feet with USFWS consultation), the following mitigation measures will be implemented:</p> <ul style="list-style-type: none"> <li>❑ All elderberry shrubs with one or more stems measuring 1 inch or more in diameter that will be directly affected by construction activities (i.e., that will be destroyed) will be transplanted to a conservation area.</li> <li>❑ Each affected shrub will be replaced in a conservation area with elderberry seedlings or cuttings at a ratio between 1:1 and 8:1, depending on the diameter of the stem at ground level, whether the shrub is located in riparian habitat, and whether the shrub has evidence of exit holes.</li> <li>❑ A mix of native tree/plant species associated with the elderberry shrubs at the project site will be planted in the conservation area at ratios of 1:1 for elderberry shrubs without exit holes or 2:1 for elderberry shrubs with exit holes (native tree/plant species to each elderberry seedling or cutting). A mixture of native grasses and forbs should also be planted</li> </ul>	<p>During construction on tank sites S-2 or S-3, and near Dry Creek along the Southern pipeline alignments</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>If the proposed project cannot avoid elderberry shrubs by 100 feet, the City shall implement the measures listed in Mitigation Measure BIO-2c or their functional equivalents.</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
in the conservation area.				
<p>□ Each transplanted elderberry shrub should have at least 1,800 square feet of area. As many as five additional elderberry seedlings or cuttings and up to five associated natives may also be planted within the 1,800-square-foot transplant area.</p>				
<p><b>Mitigation Measure BIO-3: Implement the DFG Guidelines for Swainson’s Hawk Foraging Habitat Mitigation</b></p>	<p>Prior to construction on all undeveloped storage tank sites and pipelines outside of existing roadways</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>Prior to construction, the City shall contract with a qualified wildlife biologist to survey undeveloped tank sites and/or pipelines outside of existing roadways for Swainson’s Hawk foraging habitat. If foraging habitat is found, the City shall implement DFG mitigation guidelines or their functional equivalent.</p>
<p>The City will retain a qualified wildlife biologist to conduct preconstruction surveys for Swainson’s Hawk foraging habitat on undeveloped tank sites and/or pipelines outside of existing roadways. The preconstruction surveys will be conducted to determine whether active Swainson’s Hawk nests are present within 10 miles of the project construction sites and will include, at a minimum, a study of the eight previously recorded nest sites. If the project construction site is not suitable Swainson’s Hawk foraging habitat, then no further mitigation is required. If agricultural habitat is removed within 10 miles of a known, active Swainson’s Hawk nest, the City will compensate to the extent specified by DFG to replace lost foraging habitat. Habitat compensation ratios will depend on the distance of the affected habitat from known, active nests, as specified in DFG mitigation guidelines for Swainson’s hawks. The publication Staff Report Regarding Mitigation for Impacts to Swainson’s Hawk (<i>Buteo swainsoni</i>) in the Central Valley of California, published by DFG (1994), recommends mitigation for the removal of suitable Swainson’s hawk foraging habitat at a ratio determined by the distance to the nearest active nest. The City will implement the measures identified or their functional equivalents, based on the recommendations of the qualified wildlife biologist.</p>				
<p><b>Mitigation Measure BIO-4: Retain a Qualified Biologist to Conduct a Preconstruction Survey for Nesting Swainson’s Hawk</b></p>	<p>Prior to construction on all undeveloped storage tank sites and all pipeline alignments outside of existing</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>Prior to construction, the City shall contract with a qualified wildlife biologist to survey undeveloped tank sites and/or pipelines outside of existing roadways for Swainson’s Hawk nesting habitat. If nesting habitat is found, the City shall implement DFG mitigation guidelines or their</p>
<p>If construction is scheduled to occur during the Swainson’s Hawk breeding season (generally March 1–August 15), the City will retain a qualified wildlife biologist to conduct preconstruction surveys for nesting Swainson’s Hawks on undeveloped tank sites and/or pipelines outside of existing roadways. The preconstruction surveys will be conducted to determine whether there is suitable nesting habitat within a 0.5-mile radius of the construction site. If no Swainson’s Hawks are found nesting within the</p>				

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>areas surveyed, then no further mitigation is required. If Swainson's Hawks are found nesting within a 0.5-mile radius of the construction site, DFG will be consulted to determine whether a no-disturbance buffer would be required until after the young have fledged (as determined by a qualified wildlife biologist). Impact avoidance measures will be conducted pursuant to DFG mitigation guidelines. The City will implement the measures identified or their functional equivalents, based on the recommendations of the qualified wildlife biologist.</p>	roadways			functional equivalent.
<p><b>Mitigation Measure BIO-5: Conduct Preconstruction Surveys for Active Burrowing Owl Burrows and Implement the California Department of Fish and Game Guidelines for Burrowing Owl Mitigation, if Necessary</b></p> <p>DFG (1994) recommends that preconstruction surveys be conducted to locate active Burrowing Owl burrows in the project area and in a 250-foot-wide buffer zone around the project area. The City will retain a qualified biologist to conduct preconstruction surveys for active burrows on undeveloped tank sites and/or pipelines outside of existing roadways. The preconstruction surveys will include a nesting season survey and a wintering season survey during the year immediately preceding construction. If no Burrowing Owls are detected, then no further mitigation is required. If active Burrowing Owls are detected in the survey area, the City will implement the following measures or their functional equivalents, based on the recommendations of the qualified wildlife biologist.</p> <ul style="list-style-type: none"> <li>□ Occupied burrows will not be disturbed during the nesting season (February 1–August 31).</li> <li>□ When destruction of occupied burrows is unavoidable during the non-nesting season (September 1–January 31), unsuitable burrows will be enhanced (enlarged or cleared of debris) or new burrows created (installing artificial burrows) at a ratio of 2:1 on protected lands approved by DFG. Newly created burrows will follow guidelines established by DFG.</li> <li>□ If owls must be moved away from the project area, passive relocation techniques (e.g., installing one-way doors at burrow entrances) will be used instead of trapping. At least 1 week will be necessary to accomplish passive relocation and to allow owls to acclimate to alternate burrows.</li> </ul>	<p>Prior to construction on all undeveloped storage tank sites and all pipeline alignments outside of existing roadways</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>Prior to construction, the City shall contract with a qualified wildlife biologist to survey undeveloped tank sites and/or pipelines outside of existing roadways for active Burrowing Owl burrows. If active burrows are found, the City shall implement DFG mitigation guidelines or their functional equivalent.</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>If active Burrowing Owl burrows are found and the owls must be relocated, the City will offset the loss of foraging and burrow habitat in the project area by acquiring and permanently protecting a minimum of 6.5 acres of foraging habitat per occupied burrow identified in the project area. The protected lands should be located adjacent to the occupied Burrowing Owl habitat in the project area or at another occupied site near the project area. The location of the protected lands will be determined in coordination with DFG. The City will also prepare a monitoring plan and provide long-term management and monitoring of the protected lands. The monitoring plan will specify success criteria, identify remedial measures, and require an annual report to be submitted DFG.</p> <p>If avoidance is the preferred method of dealing with potential impacts, no disturbance should occur within 160 feet of occupied burrows during the nonbreeding season (September 1–January 31) or within 250 feet during the breeding season. Avoidance also requires that at least 6.5 acres of foraging habitat (calculated based on an approximately 300-foot foraging radius of an occupied burrow), contiguous with occupied burrow sites, be permanently preserved for each pair of breeding Burrowing Owls or single unpaired resident bird. The configuration of the protected site will be submitted to DFG for approval.</p>				
<b>TRANSPORTATION</b>				
<p><b>Mitigation Measure TR-4: Maintain Traffic Lanes and Limit Hours of Construction</b></p>	<p>During construction on all storage tank sites and all pipeline alignments on arterial streets</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>The City shall prohibit all contractors from conducting construction on arterial streets during peak traffic periods.</p>
<p>The City of Modesto’s selected contractor will not conduct construction on arterial streets during the peak traffic period, and where feasible, will maintain the existing number of traffic lanes through pipeline construction.</p> <p>For pipeline segments with construction V/C ratios over 1.5 and construction duration that would exceed two weeks, if the contractor is unable to maintain the existing number of traffic lanes through pipeline construction zones, construction activities will be limited to evening hours.<sup>1</sup> This practice applies to the following routes:</p>				

<sup>1</sup> Construction V/C ratios were calculated for the peak traffic period. For segments with construction V/C ratios between 1.0 and 1.5, the off-peak (midday) construction V/C was not calculated but is anticipated to be close to or below 1.0. For this reason, midday construction for these segments is not anticipated to result in LOS failure and would be allowed.



Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<ul style="list-style-type: none"> <li><input type="checkbox"/> Carpenter Avenue, south of Maze Boulevard</li> <li><input type="checkbox"/> Yosemite Boulevard, near Codoni Avenue</li> <li><input type="checkbox"/> Briggsmore Avenue</li> </ul>				
<b>CUMULATIVE</b>				
<p><b>Mitigation Measure CUME1: Implement Enhanced Measures to Control PM10 Generation, as Recommended by SJVUAPCD, Regulation VIII (amended 2004)</b></p> <p>The City and MID will require construction contractors to implement the SJVUAPCD’s optional and enhanced PM10 control measures, listed below, or their functional equivalents.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Limit traffic speeds on unpaved roads to 15 mph.</li> <li><input type="checkbox"/> On sites with a slope greater than 1%, install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li><input type="checkbox"/> Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</li> <li><input type="checkbox"/> Install wind and/or water breaks at windward side(s) of construction areas.</li> <li><input type="checkbox"/> Suspend excavation and grading activity when Regulation VIII’s 20% opacity limitation is exceeded.</li> <li><input type="checkbox"/> Ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets throughout the duration of construction activities, where such accumulation is visible (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).</li> <li><input type="checkbox"/> Limit the area subject to excavation, grading, or other construction activity at any one time.</li> </ul> <p>These measures will be incorporated into project construction documents (plans and specifications) to ensure that they are contractually enforceable. For each phase of the project, the entity responsible for retaining construction contractors will be responsible for ensuring that these measures are correctly and effectively implemented; MID will be</p>	<p>Prior to and during construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall require all contractors to comply with SJVUAPCD Regulation VIII or their functional equivalents.</p>

Mitigation Measure	Timing	Implementing Party	Monitoring Party	Monitoring Actions
responsible during construction of MID facilities, and the City will be responsible during the construction of City facilities.				
<p><b>Mitigation Measure CUME2: Require Use of Measures to Reduce Emissions</b></p> <p>The City and MID will require construction contractors to implement the following measures to reduce emissions of combustion byproducts, or their functional equivalents.</p> <ul style="list-style-type: none"> <li>❑ Minimize idling time to 10-minute maximum.</li> <li>❑ Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.</li> <li>❑ Take steps to curtail construction activity during periods of high ambient pollution concentrations, such as reducing construction activity during the peak hours of vehicular traffic on adjacent roadways.</li> </ul>	During construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	During construction, MID and the City shall require all contractors to implement emissions-reducing measures.
<p>These measures will be incorporated into project construction documents (plans and specifications) to ensure that they are contractually enforceable. For each phase of the project, the entity responsible for retaining construction contractors will be responsible for ensuring that these measures are correctly and effectively implemented; MID will be responsible during construction of MID facilities, and the City will be responsible during the construction of City facilities.</p>				

Table 2. Mitigation Monitoring and Reporting Plan for MRWTP Phase Two Expansion, Environmental Commitments

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<b>GENERAL CONSTRUCTION MEASURES</b>				
GC-1 – Temporary road striping, signing, traffic lighting, and traffic control will be implemented for residential and business areas affected by construction.	During construction on all storage tank sites and all pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	During construction, the City shall require all contractors to implement traffic control measures.
GC-2 – Continuous access and parking provisions will be provided for residences and business areas.	During construction on all storage tank sites and all pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	During construction, the City shall require all contractors to provide access and parking for residences and businesses.
GC-3 – Existing landscaping that is removed or damaged during construction will be replaced. Areas without landscaping that are disturbed by construction will be allowed to return to a natural vegetated state. Standard erosion control practices will be implemented in compliance with current state regulations to ensure restoration is successful and to minimize soil loss.	After construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	Following construction, MID and the City shall require contractors to revegetate disturbed landscaping and implement erosion control practices.
GC-4 – Planned road improvements (e.g., raised medians, turn lanes, street alignments) will be coordinated to minimize disruptions associated with this project and other projects.	Prior to and during construction on all pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall coordinate pipeline construction with other planned roadway improvements.
GC-5 – Work area in residential areas will be restricted to the maximum length of open trench for a given segment at any given time (i.e., 200 to 500 feet).	During construction on all pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	During construction in residential areas, the City shall restrict the maximum length of open trench.
GC-6 – Dust suppression and cleanup provisions (e.g., street sweeping, sidewalk cleaning, and debris removal) will be implemented, as needed by the City of Modesto and MID.	During construction on all project facilities	MID <i>and</i> City of Modesto –	MID <i>and</i> City of Modesto –	During construction, MID and the City shall require all contractors to implement dust suppression and cleanup

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
GC-7 – Roadway surfaces damaged by construction activities, including hauling operations, will be restored to preexisting conditions.	After construction on all project facilities	Deputy Director, Capital Improvement Services <i>and</i> MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	Deputy Director, Capital Improvement Services <i>and</i> MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	provisions.  Following construction, MID and the City shall restore roadway surfaces to preexisting conditions.
GC-8 – A point of contact will be established to handle ongoing public outreach and address construction concerns. Affected residents will be notified prior to onset of construction in their area regarding contact information for this point of contact.	During construction on all pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall establish a point of contact to handle ongoing public outreach and address construction concerns.
GC-9 – Fact sheets and public updates to inform the community about progress of the project will be provided.	During construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID and the City shall distribute fact sheets and public updates about project construction.
GC-10 – Community facilities affected by construction will be restored to preexisting conditions.	After construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	Following construction, MID and the City shall restore community facilities to preexisting conditions.

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<b>PIPELINE INSTALLATION IN INTERSECTIONS</b>				
<p><b>PI-1</b> – For construction of pipelines in certain intersections, jack-and-bore construction techniques will be implemented when warranted. Jack and bore involves tunneling beneath the intersection such that the intersection itself is not adversely affected, as described previously.</p>	<p>During construction of pipelines at arterial roadway intersections</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction of pipelines, the City shall implement jack-and-bore construction techniques at arterial roadway intersections.</p>
<b>AIR QUALITY</b>				
<p><b>AQ-1</b> – The project will comply with San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Regulation VIII to control the generation of construction-related fugitive dust (PM10) emissions during construction activities. SJVUAPCD Regulation VIII is summarized in Table 2-1, <i>San Joaquin Valley Unified Air Pollution Control District Regulation VIII Control Measures for Construction Emissions of PM-10</i> [of the Draft EIR].</p>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall require all contractors to comply with SJVUAPCD Regulation VIII.</p>
<p><b>AQ-2</b> – MID and/or the City, as applicable, will require all construction contractors employed during any phase of project construction to ensure that diesel and gasoline-powered equipment is correctly tuned and maintained according to manufacturer specifications and California air quality regulations. This requirement will be incorporated into project construction documents (plans and specifications) to ensure that it is contractually enforceable. The project applicant will similarly ensure that all vehicles and other equipment used for operation and maintenance activities once the project is on line are tuned and maintained per manufacturer specifications and current California regulations.</p>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall require all contractors to comply with SJVUAPCD Regulation VIII.</p>
<b>WATER QUALITY PROTECTION MEASURES</b>				
<p><b>WQ-1</b> – Because the proposed project is anticipated to result in the disturbance of more than 1 acre, coverage under the Central Valley Regional Water Quality Control Board’s (RWQCB’s) NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit) will be obtained. Obtaining coverage under the General Construction Permit requires that MID and the City obtain permit coverage and prepare a stormwater pollution prevention</p>	<p>Prior to and during construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement</p>	<p>MID and the City shall each prepare and implement a SWPPP for their respective portions of the project construction to control erosion, sedimentation, and other pollutants during project</p>

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>plan (SWPPP) for their respective portions of the project.</p> <p>The SWPPP is required to describe the best management practices (BMPs) that will be implemented to control accelerated erosion, sedimentation, and other pollutants during and after project construction. The specific BMPs that will be incorporated into the erosion and sediment control plan and SWPPP will be determined during the final design phase of the Phase Two project, and will be implemented by the construction contractor in accordance with the RWQCB Field Manual. As a performance standard, these measures selected will represent the Best Available Technology that is economically achievable, and will be selected to achieve maximum sediment removal and water quality protection.</p> <p>At a minimum, the SWPPP shall provide for the following measures during construction:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> regular and thorough street sweeping program;</li> <li><input type="checkbox"/> detailed Hazardous Materials Spill Prevention Control and Countermeasure Plan (see environmental commitment WQ-2); and</li> <li><input type="checkbox"/> pavement inspection and repair program.</li> </ul>		Services	Services	construction.
<p><b>WQ-2</b> – As part of its NPDES General Construction Permit, a Hazardous Material Spill Prevention Control and Countermeasure Plan will be prepared for the use of construction equipment for the proposed project, and will minimize the potential for, and effects from, spills of hazardous, toxic, or petroleum substances during construction of the project. This plan will describe storage procedures and construction site housekeeping practices and identify the parties responsible for monitoring and spill response. The measures and monitoring procedures required under the General Construction Permit will minimize the potential for release of hazardous materials to the environment. The City and/or MID, as applicable, will review and approve the Hazardous Materials Spill Prevention Control and Countermeasure Plan before allowing construction to begin. The project proponent will routinely inspect the action area to verify that the BMPs specified in the plan are properly implemented and maintained, and immediately notify the contractor if there is a noncompliance issue and shall require compliance.</p>	Prior to and during construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID and the City shall each prepare and implement a Hazardous Materials Spill Prevention Control and Countermeasure Plan for their respective portions of the construction project to minimize spills of hazardous, toxic, or petroleum substances during project construction.

Table 2. Mitigation Monitoring and Reporting Plan for MRWTP Phase Two Expansion, Environmental Commitments (Continued)

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p><b>WQ-3</b> – The federal reportable spill quantity for petroleum products, as defined in the U.S. Environmental Protection Agency’s (EPA’s) Code of Federal Regulations (CFR) (40 CFR 110) is any oil spill that (1) violates applicable water quality standards, (2) causes a film or sheen upon or discoloration of the water surface or adjoining shoreline, or (3) causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.</p> <p>If a spill is reportable, the contractor’s superintendent would immediately notify the City of Modesto and/or MID, Stanislaus County Department of Environmental Resources, and the California Department of Toxic Substances Control (DTSC), which have spill response and clean-up ordinances to govern emergency spill response. A written description of reportable releases must be submitted to the RWQCB. This submittal must include a description of the release, including the type of material and an estimate of the amount spilled, the date of the release, an explanation of why the spill occurred, and a description of the steps taken to prevent and control future releases. The releases would be documented on a spill report form.</p> <p>If a reportable spill has occurred and results determine that project activities have adversely affected groundwater quality in excess of water quality standards, a detailed analysis will be performed by a Registered Environmental Assessor to identify the likely cause of contamination. This analysis will conform to American Society for Testing and Materials (ASTM) standards, and will include recommendations for reducing or eliminating the source or mechanisms of contamination. Based on this analysis, the City, MID, and/or their contractors will select and implement measures to control contamination, with a performance standard that groundwater quality must be returned to baseline conditions. These measures will be subject to approval by the City and MID.</p>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>During construction, MID and the City shall require all contractors to notify the Stanislaus County Department of Environmental Resources and DTSC of reportable releases. If a reportable release has occurred, a detailed analysis shall be performed by a Registered Environmental Assessor and MID and the City shall select and implement measures to control contamination.</p>
<b>NOISE-REDUCING CONSTRUCTION PRACTICES</b>				
<p><b>NR-1</b> – The construction contractor will employ noise-reducing construction practices such that noise from construction does not exceed applicable City or County noise ordinance limits. Measures that may be used to limit noise may include but are not limited to:</p> <ul style="list-style-type: none"> <li>□ locating equipment as far as practical from noise-sensitive receptors, including residences and occupied hospital facilities;</li> </ul>	<p>During construction on all project facilities</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement</p>	<p>MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement</p>	<p>During construction, MID and the City shall require all contractors to employ noise-reducing construction practices.</p>

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<ul style="list-style-type: none"> <li>❑ using sound control devices (e.g., properly operating mufflers) on construction equipment and vehicles;</li> <li>❑ using noise-reducing enclosures around noise-generating equipment (i.e., engines), and shrouds or shields around impact tools; and</li> <li>❑ limiting the hours of construction activities to the hours indicated in subsection (b) of section 4-9.103 from the City’s Noise Ordinance (between 9:00 p.m. and 7:00 a.m., daily and 9:00 p.m. and 9:00 a.m. Saturdays, Sundays, and Federal and State holidays) when work is within 150 feet of residences.</li> </ul>		Services	Services	
<p>NR-2 – The construction contractor will prepare a detailed Noise Control Plan based on the construction methods proposed. This plan will identify specific measurements that will be taken to ensure compliance with the noise limits specified above. The noise control plan will be reviewed and approved by the City/MID before any noise-generating construction activity begins.</p>	Prior to construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	Prior to construction, MID and the City shall require all contractors to prepare a detailed Noise Control Plan.
<p>NR-3 – Prior to construction, the City will notify residences along the construction areas of the construction schedule in writing. The City will designate a noise disturbance coordinator, who will be responsible for responding to complaints regarding construction noise. The coordinator will determine the cause of the complaint and will ensure that reasonable measures are implemented to correct the problem. A contact telephone number for the noise disturbance coordinator will be conspicuously posted on construction site fences and will be included in the written notification of the construction schedule sent to nearby residents in the identified range. These duties may be delegated to the City’s contractor in the project specifications.</p>	Prior to construction on all storage tank sites and pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	Prior to construction, the City shall require all contractors to notify residences of the construction schedule and the designated point of contact for construction concerns.
<b>PALEONTOLOGICAL RESOURCES</b>				
<p>CR-1 – If paleontological resources are discovered during ground-disturbing activities, the construction contractor shall stop work in that area and within 100 feet of the find until a qualified paleontologist can assess the significance of the find and develop appropriate treatment measures. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the</p>	During construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement	During construction, MID and the City shall stop work if paleontological resources are found. A qualified paleontologist shall be contacted to assess the significance of the find and



Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
finds. The City or MID, as applicable, shall be responsible for ensuring that the recommendations of the paleontologist regarding treatment and reporting are implemented.		Services	Services	develop appropriate treatment measures.
<b>HAZARDOUS MATERIALS PHASE I SITE ASSESSMENT</b>				
<b>HM-1</b> – Prior to constructing project facilities, the City will engage in further investigation of available environmental records of hazardous materials sites to determine whether the project sites pose any risks. For storage tank sites and pipeline alignments, a Phase I site assessment will be conducted in accordance with ASTM standards, and any recommendations to reduce risks associated with hazardous materials contamination given in that assessment will be implemented to the satisfaction of the appropriate hazardous materials agencies before construction begins. If Phase I assessments indicate the potential for contamination within or adjacent to the tank site or pipeline alignment, Phase II studies will be completed before construction begins. Phase II studies will include soil and groundwater sampling and analysis for anticipated contaminating substances. If soil or groundwater contaminated by potentially hazardous materials is exposed or encountered during construction, the appropriate hazardous materials agencies will be notified. A work plan to characterize and possibly remove contaminants may be required by the appropriate hazardous materials agencies.	Prior to construction on all storage tank sites and pipeline alignments	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	Prior to construction of storage tanks and pipeline alignments, the City shall conduct Phase I site assessments for hazardous materials. If needed, Phase II studies and work plans to characterize and remove contaminants shall also be prepared.
<b>HM-2</b> – MID and the City currently have comprehensive emergency management plans for emergency response to a release or threatened release of any hazardous material used, transported, stored, or handled at the MRWTP or City wells. This plan will be updated to reflect the Phase Two project. In the event of an accidental release, emergency response plans would provide emergency responders with a protocol for containing and disposing of the unintentional release.	Prior to construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	Prior to construction, MID and the City shall update their comprehensive emergency management plans to reflect the Phase Two project.
<b>CONSTRUCTION SCREENING</b>				
<b>CS-1</b> – Construction staging areas for equipment, personal vehicle parking, and material storage shall be sited as far as possible from major roadways, and locations shall be approved by the City or MID as appropriate. The locations of the staging areas shall be reflected in the contract documents.	During construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director,	MID <i>and</i> City of Modesto – Deputy Director,	MID and the City shall require all contractors to site construction staging areas as far as possible from major

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
		Capital Improvement Services	Capital Improvement Services	roadways.
CS-2 – Opportunities for screening staging areas with existing topography and vegetation will be maximized. If chain-link security fencing is placed around such areas, slats or screening of an earth tone or other neutral color should be used unless obstruction of views into the area poses a security concern.	During construction on all project facilities	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID <i>and</i> City of Modesto – Deputy Director, Capital Improvement Services	MID and the City shall require all contractors to screen construction staging areas.
CS-3 – Construction work hours will be limited to reduce construction impacts on residences near the selected downstream facilities locations.	During construction on all project facilities	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall require all contractors to limit construction work hours in residential areas.
<b>SITE DESIGN</b>				
SD-1 – To reduce visibility from roads and sensitive land uses, the north and west storage tanks and aboveground pressure valve buildings will be placed well away from the site boundaries. These storage tanks and pressure valves will be designed to conform to the existing character of the surrounding land use through use of matching paint colors, fencing materials, and landscaping. The painting palette for each site will be selected to match the colors and tones of the surrounding neighborhood. Building materials used in the tanks and valves will be selected to match the character of surrounding land uses.	During site design for tank sites N-1, N-2, N-3, W-1, W-2, or W-3	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall reduce the visibility of storage tanks and pressure valve buildings through site design, landscaping, materials, and painting.
SD-2 – To reduce visibility of the structure’s height and bulk, partial burial of the north and west water storage tanks and/or control valves will be implemented where feasible. If located in aboveground structures, block wall screening and landscaping will be used.	During site design for tank sites N-1, N-2, N-3, W-1, W-2, or W-3	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall reduce the visibility of storage tanks through partial burial, where feasible, as well as screening and landscaping.
SD-3 – To minimize any effects from introduced light sources and reflected light, all structures and hardware surfaces (with the exception of the southeastern tank) will be finished with paint or other treatments to minimize daytime glare and reflectivity, including components such as grates, railings, piping, roofs, and other metal fixtures. All surfaces	During site design for all tank sites	City of Modesto – Deputy Director, Capital Improvement	City of Modesto – Deputy Director, Capital Improvement	The City shall reduce reflected light from storage tanks through non-glare surfacing and painting.

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
affected by the proposed project will be covered with non-glare surfacing.		Services	Services	
<b>SD-4</b> – To reduce the effects of night illumination, all lights (with the exception of those at the southeastern tank) will be shielded and directed away from sensitive uses and the sky. Lighting will be internally directed with low-level intensity, sufficient only to detect movement within facility grounds. The quantity of lights used shall be the minimum required for property security to minimize incidental light. The lights shall be focused only where needed (such as building entrances) and should not provide a general “wash” of light on building surfaces. Lights shall be cutoff-type fixtures that cast low-angle illumination to minimize incidental spillover of light onto adjacent properties and open space. All lights shall provide good color rendering and natural light qualities. Low-pressure sodium and high-pressure sodium fixtures that are not color-corrected shall not be used. The lighting design shall also meet minimum safety and security standards.	During site design for all tank sites	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall reduce night illumination from storage tanks through light shielding, low-angle positioning, and color treatment.
<b>SD-5</b> – To ensure compatibility with surrounding land uses, gates and fencing consistent with the neighborhood will be installed around the north and west tanks. Gates and fencing that are visible from public roadways should be similar to those existing in nearby rural residential neighborhoods. Appropriate fencing materials would include block wall construction with adequate landscaping around the perimeter of facility walls. Appropriate gate materials include wood or black wrought iron (or aluminum fashioned to mimic iron).	During site design for tank sites N-1, N-2, N-3, W-1, W-2, or W-3	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall reduce the visibility of the north and west tanks through gate and fencing materials compatible with surrounding land uses.
<b>SD-6</b> – A combination of earth berms, landscaping, and/or tree screening along the perimeter of the north and west tank sites will be provided. Trees can be used for screening purposes. (See <i>SD-7</i> regarding landscaping program)	During site design for tank sites N-1, N-2, N-3, W-1, W-2, or W-3	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall reduce the visibility of the north and west tanks through earth berms, landscaping, and/or tree screening.
<b>SD-7</b> – A landscaping program will be implemented for the north and west tank sites and aboveground pressure valve buildings. The landscaping program should be developed by a licensed landscape architect in cooperation with the project engineer. The primary goal of the program should be to guide location, selection, installation, and maintenance of landscaping along public roadways and around new facilities to screen views, minimize exposed surface area, and maintain consistency with the surrounding character. Species selection should reflect and respect the existing mature plantings associated with residences in the area and the remaining native vegetation. The program should mandate maintenance of	During site design for tank sites N-1, N-2, N-3, W-1, W-2, or W-3	City of Modesto – Deputy Director, Capital Improvement Services	City of Modesto – Deputy Director, Capital Improvement Services	The City shall contract with a licensed landscape architect to prepare a landscaping program for the north and west tank sites. The landscaping program shall screen views, minimize exposed surface area, and maintain consistency with surrounding land uses.

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>the landscaping for optimum survivorship, vigor, and appearance, including provisions for irrigation, pruning, mulching, and replacement planting. The owner of the facility will be responsible for maintenance of vegetation on the tank sites.</p> <p>The plant palette of the landscaping shall reflect species that are native and indigenous to the project area. The species used should include trees, shrubs, and an herbaceous understory of varying heights, as well as evergreen and deciduous types. Plant variety will increase the effectiveness of the screen by providing multiple layers, seasonality, more diverse habitat, and reduced susceptibility to disease. Large shrubs that may be used as part of the landscaping for their density and color are <i>Heteromeles arbutifolia</i> (toyon), <i>Fremontodendron</i> "Ken Taylor" (hybrid flannel bush), <i>Ceanothus</i> "Ray Hartman" (Treasure Island blueblossom), and <i>Cercis occidentalis</i> (western redbud). Potential tree species that may be used for their height and structure include <i>Platanus acerifolia</i> "Bloodgood" (London plane), <i>Sequoia sempervirens</i> 'Aptos Blue' (coast redwood), and <i>Quercus suber</i> (cork oak).</p>				
<b>TRAFFIC CONTROL PLAN</b>				
<p><b>TC-1</b> – The City will require that the contractor prepare and implement a Traffic Control Plan in order to mitigate the project’s construction-related traffic impacts. The Traffic Control Plan will ensure that adequate level of service is maintained, or in areas where level of service standards are not being met, that the project will not further degrade level of service. The Traffic Control Plan will also reduce potential safety hazards and other risks associated with construction activities. The contractor will develop and implement a Traffic Control Plan as part of the overall Construction Management Plan, in accordance with City and Caltrans policies. The Traffic Control Plan will be implemented throughout the course of project construction, and will include the following elements to reduce traffic congestion and improve traffic safety along all impacted roadways.</p> <ul style="list-style-type: none"> <li>□ Ensure internal coordination on the part of the City regarding construction hours of operation and lane closures. Develop a plan for communicating construction plans with transit providers, emergency service providers, residences, and businesses located in the project vicinity, and anyone else who may be affected by project construction.</li> <li>□ Follow all City guidelines for lane closures caused by construction</li> </ul>	<p>Prior to construction on all pipeline alignments</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>City of Modesto – Deputy Director, Capital Improvement Services</p>	<p>Prior to construction, the City shall require all contractors to prepare a Traffic Control Plan to mitigate construction-related impacts. The Traffic Control Plan shall include the elements list in Environmental Commitment TC-1.</p>

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
activities.				
<ul style="list-style-type: none"> <li data-bbox="226 350 978 581">❑ Limit lane closures during peak commuting hours to the extent possible. Identify roadway segments or intersections that are at or approaching level of service (LOS) that exceeds local standards, and provide for construction-generated traffic to avoid these locations at the peak periods, either by traveling different routes or by traveling at non-peak times of day. No lane closures will be allowed during peak commuting hours where level of services standards are not currently met.</li> <li data-bbox="226 605 978 711">❑ Install traffic control devices as specified in the California Department of Transportation’s Manual of Traffic Controls for Construction and Maintenance Works Zones (California Department of Transportation 1996).</li> <li data-bbox="226 735 978 824">❑ Require traffic controls in the construction zones, including flag persons wearing bright orange or red vests and using a “Stop/Slow” paddle to control oncoming traffic.</li> <li data-bbox="226 849 978 898">❑ Require that access to driveways and private roads outside the immediate construction zone be maintained at all times.</li> <li data-bbox="226 922 978 979">❑ Develop a business notification plan for access to local businesses in and adjacent to the construction zone.</li> <li data-bbox="226 1003 978 1052">❑ Provide alternate routes for bicyclists and pedestrians during sidewalk, bike lane, and recreation trail closures.</li> <li data-bbox="226 1076 978 1222">❑ Provide notification to the public of temporary closures of roadways, sidewalks, bike lanes, and recreation trails. Require that advance notice signs of upcoming construction activities be posted at least 1 week in advance, so that motorists, bicyclists, and pedestrians are able to avoid traveling through the project area during these times.</li> <li data-bbox="226 1247 978 1409">❑ Consult with emergency service providers and develop an access and circulation plan for use by emergency vehicles when lane closures and/or detours are in effect. If lane closures occur, provide advance notice to local fire and police departments to ensure that alternative evacuation and emergency routes are designed to maintain response times.</li> <li data-bbox="226 1433 978 1458">❑ Construction warning signs should be posted in accordance with local</li> </ul>				

Environmental Commitment	Timing	Implementing Party	Monitoring Party	Monitoring Actions
<p>standards or those set forth in the Manual on Uniform Traffic Control Devices (FHWA 2001), in advance of beginning construction in a particular area and at any intersection that provides access to the construction area;</p> <ul style="list-style-type: none"> <li data-bbox="210 446 966 560">□ Require that written notification be provided to all contractor employees regarding appropriate routes to and from the construction site, and the weight and speed limits on local roads used to access the construction site;</li> <li data-bbox="210 576 966 673">□ Specify that signs be posted at all active construction areas giving the name and telephone number or e-mail address of the City staff person designated to receive complaints regarding construction traffic.</li> </ul>				

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-516**

**A RESOLUTION APPROVING THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT WITH MODESTO IRRIGATION DISTRICT RELATED TO THE PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AUTHORIZING STAFF TO PURSUE IMPLEMENTATION OF THE PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT UNDER THE TERMS OF THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT, AND APPROVING THE DOWNSTREAM CITY FACILITIES PROJECT AS ANALYZED BY THE FINAL SEIR, INCLUDING THE DESIGN AND CONSTRUCTION OF THE DOWNSTREAM CITY FACILITIES, WHICH INCLUDES STORAGE TANKS, PIPELINES, FLOW CONTROL VALVES, PUMPS, AND ASSOCIATED STRUCTURES, ACQUISITION OF RIGHTS OF WAY AS NECESSARY TO IMPLEMENT THE DOWNSTREAM CITY FACILITIES, AND ANY ACTIVITIES AS NECESSARY TO OBTAIN NECESSARY PERMITS OR AUTHORIZATIONS TO IMPLEMENT THE DOWNSTREAM CITY FACILITIES**

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement (TDA) with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the amended and restated Treatment and Delivery Agreement contemplates the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the MRWTP, and

WHEREAS, City and MID agree that the preliminary costs should be included in the project costs to be financed at a later date, and MID agrees to initially fund certain costs related to preliminary work for the project, and

WHEREAS, MID agrees to provide written notice to City that the time to commence project financing has arrived, and

WHEREAS, City agrees that MID should be reimbursed for certain costs related to preliminary work for the project, and under the terms of the aforementioned agreement, MID is required to obtain City authorization to proceed beyond each major project milestone of the amended and restated Treatment and Delivery Agreement, and

WHEREAS, the Acting Public Works Director recommends approving the amended and restated Treatment and Delivery Agreement with Modesto Irrigation District related to the Phase Two Expansion of the Modesto Regional Water Treatment Plant, and authorizing the City Manager, or designee, to execute the agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amended and restated Treatment and Delivery Agreement for the Phase Two Expansion of the Modesto Regional Water Treatment Plant.

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to pursue implementation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant under the terms of the amended and restated Treatment and Delivery Agreement.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it approves the Downstream City Facilities project as analyzed by the Final SEIR, including the design and construction of the Downstream City Facilities, which includes storage tanks, pipelines, flow control valves, pumps, and associated structures, acquisition of



rights of way as necessary to implement the Downstream City Facilities, and any activities as necessary to obtain necessary permits or authorizations to implement the Downstream City Facilities.

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 October 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-517**

**A RESOLUTION APPROVING A CAPITAL FACILITIES FEES RIGHT OF  
WAY REIMBURSEMENT AGREEMENT FOR THE DEDICATION OF RIGHT  
OF WAY AT THE SOUTHWEST CORNER OF CLARATINA AVENUE AND  
COFFEE ROAD**

WHEREAS, Developer owned a certain tract of land at the southwest corner of Claratina Avenue and Coffee Road in the Coffee-Claratina Specific Plan area of the City of Modesto, commonly known as the Loretelli Manor Subdivision (“Project”); and

WHEREAS, Developer has developed said Project and, as a condition of approval of said development was required to dedicate certain right of way along Claratina Avenue and Coffee Road, a portion of which is set forth and described in Exhibit “A” attached hereto; and,

WHEREAS, on or about March 30, 2004, Developer made all dedications required by the conditions of approval for the Project; and,

WHEREAS, the required dedication included a total amount of right of way of 13,350 square feet of right which was in excess of the standard right of way dedication required under City’s Capital Facilities Fees (CFF) Right of Way Dedication Policy, and

WHEREAS, Developer has requested, and City has agreed, that the Developer be reimbursed for the Excess Dedication at the adopted CFF reimbursement rate of \$5.00 per square foot.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby approves the following a Reimbursement Agreement with William and Veronica Loretelli in the amount of \$66,760 for 13,350 square feet of right of way located at the southwest corner of Coffee Road and Claratina Avenue

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**Exhibit A**  
**Engineer's Estimate**  
**Maximum Allowable CFF Reimbursement**  
**Developer: Loretelli**  
**Subdivision: Loretelli Manor**

Project Number: \_\_\_\_\_ CIP Number: \_\_\_\_\_

Project Title: Coffe/Claratina ROW

Location: Corner of Coffee and Claratina for ROW dedication

Percentage of Total: \_\_\_\_\_

Item	Quantity	Unit Price	Amount Allocated For Reimbursement by the CFD
Clearing & Grubbing (SF)	0	\$0.10	\$0
Remove Pavement (SY)	0	\$2.50	\$0
Roadway Excavation (CY)	0	\$15.00	\$0
Asphalt Concrete (Ton)	0	\$45.00	\$0
Aggregate Base (Ton)	0	\$25.00	\$0
Curb & Gutter (LF)	0	\$15.00	\$0
Median Curb (LF)	0	\$18.00	\$0
Sidewalk (SF)	0	\$3.00	\$0
Parkway Landscaping (SF)	0	\$4.50	\$0
Median Landscaping (SF)	0	\$4.35	\$0
Electroliers	0	\$5,000.00	\$0
Signing and Striping (SF)	0	\$0.10	\$0
Reconstr Priv. Imp's (LS)	0	\$118,000	\$0
Storm Drainage (LS)	0	\$138,500	\$0
Relocate Power Poles (EA)	0	\$15,000	\$0
<b>Construction Total:</b>			<b>\$0</b>
10% Design	10%	\$0	\$0
10% Construction Management	10%	\$0	\$0
Right Of Way (sf)	13350.00	\$5	\$66,750
<b>Maximum Allowable CFF Reimbursement:</b>			<b>\$66,750</b>

*All quantities shall be verified in the field.*

*Unit costs will be based on the submitted and approved contractor invoices.*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-518**

**A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY  
FACILITIES NO. 2005-1 (HETCH HETCHY), AUTHORIZING THE LEVY OF  
SPECIAL TAXES THEREIN AND ESTABLISHING AN ANNUAL  
APPROPRIATIONS LIMIT**

WHEREAS, on September 6, 2005, pursuant to a petition filed by Shelter Cove Community Church, Inc. (the "Petitioner") this City Council adopted a resolution (the "Resolution of Intention") stating its intention to form City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on September 6, 2005, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$150,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed on Appendix A to the Resolution of Intention, and all appurtenances and appurtenant work associated with the foregoing (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of

the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the “Incidental Expenses”); all as more fully described in said resolution; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$150,000,000; and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities as required by Section 53321.5 of the Government Code (the “Report”); and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special taxes to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed special taxes to be levied within the Community

Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all matters relating to the formation of the Community Facilities District, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, there have been fewer than twelve registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in Attachment A hereto, (ii) the issuance of bonds to pay for the Facilities and the Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated “City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy)” is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District were valid and in

conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District are established as shown on the map designated “Boundary Map of Proposed City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy),” which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 4, at Page 28, as Instrument No. 05-0171573-00.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the “Facilities” in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the “Services”).

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in Attachment A hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iv) the other Incidental Expenses, including the costs of forming the Community Facilities District and administering the



levy and collection of the special tax and all other administrative costs of the special tax levy and bond issues. The City expects to incur, and in certain cases has already incurred, incidental expenses in connection with the creation of the Community Facilities District, the issuance of bonds, the levying and collecting of the special taxes, the provision of the Services, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District. The rate and method of apportionment of special tax is described in detail on Attachment A hereto and incorporated herein by this reference, and the City Council hereby finds that Attachment A contains sufficient detail to allow each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Report, which is incorporated by reference herein, the special taxes are based generally on area of each parcel of real property within the Community Facilities District (except to the extent that certain single family detached lots may be taxed at the same rate regardless of land area) and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor's parcel for a period not to extend beyond fiscal year 2060-61. The special taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based upon the ownership of real property. Under no circumstances shall the special taxes against any parcel used for private residential purposes be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.

The City's Community Facilities District Administrative Officer, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be

responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in Attachment A, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt in order to yield the required debt service payments on any outstanding bonds of the Community Facilities District or to prevent the Community Facilities District from defaulting on any of its other obligations or liabilities. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax attached hereto as Attachment A.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.

SECTION 8. It is hereby further determined that there will be no ad valorem property tax levied on property within the Community Facilities District for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to

finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District as are proposed to be provided by the Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, the Petitioner and other private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by it in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City, with or without interest.

SECTION 10. Written protests against the establishment of the Community Facilities District have not been filed by one-half or more registered voters within the boundaries of the Community Facilities District or by the property owners of one-half (1/2) or more of the area of land within the Community Facilities District. The City Council hereby finds that the proposed special taxes have not been precluded by a majority protest pursuant to Section 53324 of the Act.

SECTION 11. The annual appropriations limit (as defined in Section 8(h) of Article XIII B of the California Constitution) of the Community Facilities District is hereby established at \$150,000,000.

SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community

Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Section 53351 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment B.

SECTION 13. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be October 11, 2005. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOTES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**ATTACHMENT A**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1**  
**(HETCH HETCHY)**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2005-1 (Hetch Hetchy) [herein "CFD No. 2005-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2005-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2005-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2005-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

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

**"Annual Facilities Special Tax"** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year to (i) pay principal and interest on Bonds, (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) create or replenish reserve funds, (iv) cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2005-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2005-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

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

**“Annual Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year, (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year, and (iv) pay debt service on Bonds to the extent permitted in the Bond documents.

**“Assessor’s Parcel” or “Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

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

**“Association Property”** means any property within CFD No. 2005-1 that is owned by a homeowner association or property owner association, including any master or sub-association. Notwithstanding the foregoing, if a homeowner association owns the land area under the pad of a residential structure, the Administrator shall determine the Acreage under the pad of the building and such Acreage shall be categorized as Single Family Attached Property or Single Family Detached Property, as appropriate, and shall not be designated as Association Property.

**“Authorized Facilities”** means those facilities that are authorized to be funded by CFD No. 2005-1.

**“Authorized Services”** means those services that are authorized to be funded by CFD No. 2005-1.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2005-1 related to Authorized Facilities.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2005-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2005-1.

**“County”** means the County of Stanislaus.

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

*For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year. However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

*For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,



- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year. However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure.

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

**“Improvement Area”** means a geographic area that, upon annexation into CFD No. 2005-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

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

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

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

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

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

Taxable Property or, for Other Property for which a building permit is not required, prior to a grading permit being issued.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2005-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means (i) an Assessor’s Parcel in CFD No. 2005-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation), (ii) a Successor Parcel that is being further subdivided for purposes of determining the Maximum Special Taxes pursuant to Section C below, or (iii) more than one Assessor’s Parcel proposed to be annexed into the CFD as part of a single annexation, the Maximum Special Taxes assigned to which will be aggregated and redistributed to land uses within such Assessor’s Parcels if such aggregation is requested by the developer processing the annexation and/or preferred at the sole discretion of the City.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

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

**“Public Property”** means any property within the boundaries of CFD No. 2005-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Shelter Cove Community Church Property”** means that Parcel identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003, owned by Shelter Cove Community Church, a California non-profit corporation, and designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Shelter Cove Community Church Property.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

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

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

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

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

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2005-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2005-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Development Plan are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues. When such a trade occurs, the Administrator will recalculate the Maximum Special Taxes and revise Attachment 2.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2005-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes for each Original Parcel.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be

expanded to include additional Original Parcels that annex to CFD No. 2005-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2005-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2005-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Final Map.

## **C. CALCULATING MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2005-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2005-1 as a result of future annexations.

1. **Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2005-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

2. **Successor Parcels**

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

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

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

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

**Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

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

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

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;

**Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;

**Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;

**Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

**Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

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

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

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2007-08, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2005-1 and shall be collected as set forth in Section F below.

**2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2005-1 as follows:

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

Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

*Step 2:* If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

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

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

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

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

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

### **F. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2005-1 (or, for Other Property for which a building permit is not required, prior to a grading permit being issued), and shall be immediately



delinquent if not so paid. In the case of Shelter Cove Community Church Property, the One-Time Facilities Special Tax shall be paid at the time additional property is annexed into the CFD or when a building permit is issued for new construction of a structure on Shelter Cove Community Church Property, whichever occurs later.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2005-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Association Property or Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Special Tax may be levied on Shelter Cove Community Church Property unless and until additional property is annexed into the CFD.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be

used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$1,740,000 in 2005 dollars, which shall increase on January 1, 2006, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2005-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "*Remaining Facilities Amount*").
- Step 6.** Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").

**Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the *“Reserve Fund Credit”*).

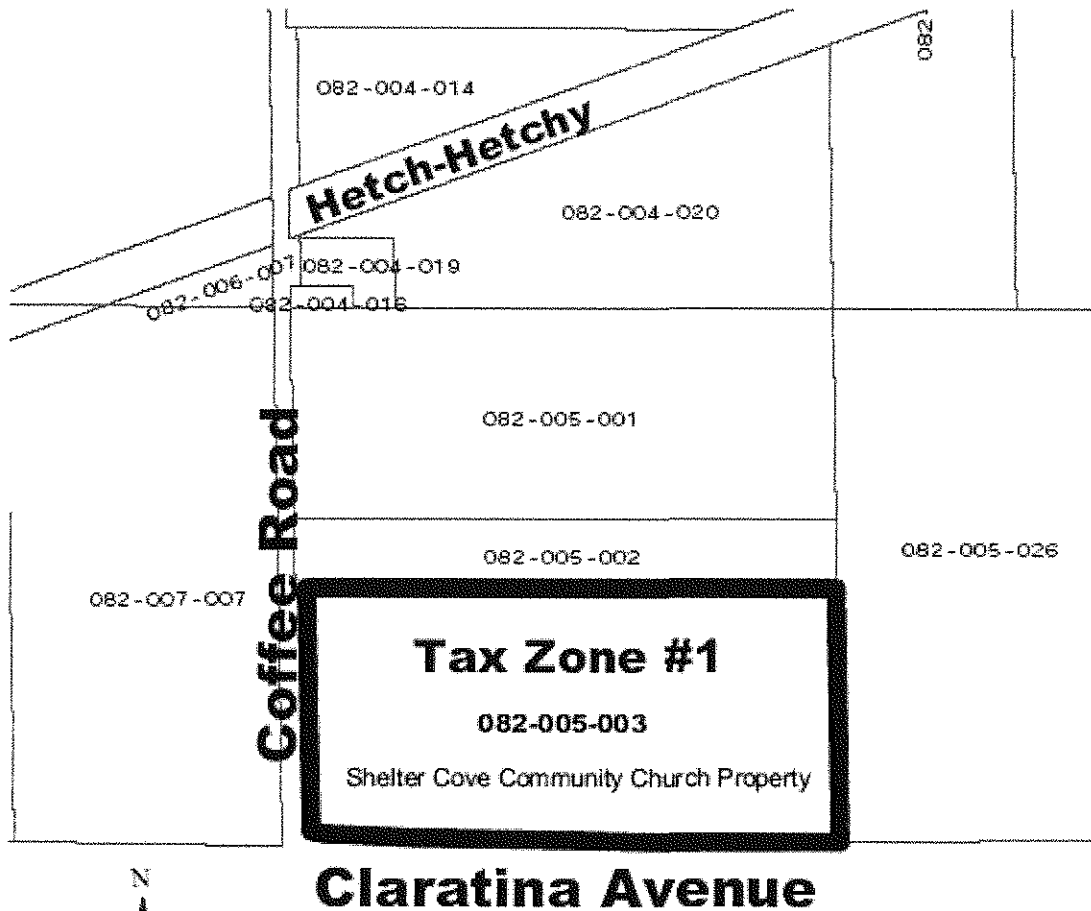
**Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the *“Prepayment Amount”*).

**I. INTERPRETATION OF SPECIAL TAX FORMULA**

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

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH-HETCHY)  
IDENTIFICATION OF TAX ZONES



ATTACHMENT 2

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH HETCHY)

MAXIMUM SPECIAL TAXES ASSIGNED TO EACH  
ORIGINAL PARCEL WITHIN EACH TAX ZONE

Tax Zone	APN	Fiscal Year 2006-07 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2006-07 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2006-07 Maximum Annual Maintenance Special Tax [3]
1	082-005-003	\$1,739,130	\$179,046	\$100,572

1. Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
2. Beginning in Fiscal Year 2007-08 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**ATTACHMENT B**

**BALLOT PROPOSITION**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

**SPECIAL ELECTION**

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$150,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation system and park improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2005-1 (Hetch Hetchy) be established in the amount of \$150,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-519**

**A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED  
INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

WHEREAS, on September 6, 2005, pursuant to a petition filed by Shelter Cove Community Church, Inc., this City Council adopted a resolution stating its intention to form the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of said resolution, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on September 6, 2005, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$150,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system improvements, transportation system and park improvements and all appurtenances and appurtenant work in connection with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses incurred and to be incurred in connection with financing the Facilities, including costs associated with the creation of the



Community Facilities District and the issuance of bonds and the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses"), all as more fully described in said resolution; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City Council to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$150,000,000 within the boundaries of the Community Facilities District; and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special tax to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness within the Community Facilities District, to declare the purpose for such indebtedness, and to authorize the submittal of a combined ballot proposition to the qualified electors of the Community Facilities District, being the land owners within the Community Facilities District, all as authorized and required by law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. In order to finance the Facilities and Incidental Expenses, it is necessary to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$150,000,000 within the Community Facilities District.

SECTION 3. The aforesaid bonded indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, expanding, improving or rehabilitating the Facilities and financing the Incidental Expenses.

SECTION 4. All of the property within the Community Facilities District, as established pursuant to the Resolution of Formation, with the exception of property exempted from the special tax pursuant to the provisions of the rate and method of apportionment of special tax attached to the Resolution of Formation, shall pay for the bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Formation.

SECTION 5. The maximum term of the bonds to be issued shall in no event exceed 40 years; and the bonds shall bear interest at rates (not in excess of the maximum rate permitted by law) determined at the time of sale thereof.

SECTION 6. An election is hereby called for the Community Facilities District on the proposition of incurring bonded indebtedness pursuant to Section 53351 of the Act

and shall be consolidated with the election on the propositions of levying the special taxes on the property within the Community Facilities District and establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment A.

SECTION 7. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be October 11, 2005. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above; and, pursuant to Section 53326 of the Government Code, each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

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 October, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**ATTACHMENT A**  
**BALLOT PROPOSITION**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

**SPECIAL ELECTION**

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$150,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation system and park improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2005-1 (Hetch Hetchy) be established in the amount of \$150,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-520**

**A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

WHEREAS, on this date, this City Council adopted a resolution entitled “A Resolution Establishing City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit” (the “Resolution of Formation”), which established the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the “Community Facilities District”), authorized the levy of special taxes therein, and established an annual appropriations limit; and

WHEREAS, on this date, the City Council, acting as the legislative body of the Community Facilities District, also adopted a resolution entitled “A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy),” which declared the necessity to incur bonded indebtedness in the maximum amount of \$150,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, propositions to authorize the levy of special taxes within the Community Facilities District, to establish an appropriations limit of the Community Facilities District and to authorize the incurring of bonded indebtedness are to be submitted to the qualified electors of the Community Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”);

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy), hereby finds and determines as follows:

SECTION 1. Pursuant to the Act the propositions to authorize the levy of special taxes within the Community Facilities District, establish an appropriations limit of the Community Facilities District and authorize the incurring of a bonded indebtedness shall be combined into one ballot proposition and submitted to the qualified electors of the Community Facilities District as provided herein.

SECTION 2. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 3. The date of the election shall be October 11, 2005, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on October 11, 2005; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.

SECTION 4. The form of the ballot for the election is attached hereto as Exhibit A and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of

the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 5. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on October 11, 2005 whether said ballots shall be personally delivered or received by mail.

SECTION 6. There is on file with the City Clerk a written instrument executed by the sole qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October, 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zaher  
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT A**  
**OFFICIAL BALLOT**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)**

**October 11, 2005**

**SPECIAL ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on October 11, 2005, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

**INSTRUCTIONS TO VOTERS:**

To vote on the measure, make a "+," "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$150,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation system and park improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2005-1 (Hetch Hetchy) be established in the amount of \$150,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

[NAME]

By \_\_\_\_\_

Number of Votes: \_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-521**

**A RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION  
AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH  
HETCHY)**

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the “Community Facilities District”), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on September 6, 2005 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the “Proposition”) for (a) the authorization of bonds in a principal amount not to exceed \$150,000,000, (b) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (c) the establishment of an appropriations limit for the Community Facilities District; and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as Attachment “A”;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on October 11, 2005 on the Proposition were cast in favor of the Proposition, and the Proposition carried. The City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to issue, from time to time as it determines appropriate, bonds for the benefit of the Community Facilities District for the purposes set forth in the Proposition and to take the necessary steps to levy the special taxes authorized by the Proposition.

SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of October, 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

ATTACHMENT "A"

CERTIFICATE OF CITY CLERK  
AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

STATE OF CALIFORNIA            )  
  )     ss.  
COUNTY OF STANISLAUS        )

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) (the "Community Facilities District"). With my concurrence, the election was conducted on October 11, 2005. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to October 11, 2005 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: 18

NO: 0

TOTAL NUMBER OF VOTES CAST: 18

Dated this 11<sup>th</sup> day of October, 2005.

  
\_\_\_\_\_  
Jean Zahr,  
City Clerk of the City of Modesto

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-522**

**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. 9)**

WHEREAS, this Council did, on September 6, 2005, adopt its Resolution No. 2005-424 (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. 9 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, 2005, 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 27; and

WHEREAS, at the time and date set for the hearing (October 11, 2005) pursuant to the Resolution of Intention to Annex, this Council held the public hearing on Tuesday, October 11, 2005, 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 11th day of October 2005. 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 11th of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**SAMPLE  
OFFICIAL BALLOT**

BALLOT NO. \_\_\_\_\_

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 9**

**SPECIAL TAX ELECTION**

October 11, 2005

\_\_\_\_% 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. 2005-424, 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. 9)" adopted by the City Council of the City of Modesto on September 6, 2005, 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. 2005-523**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE OCTOBER 11, 2005, 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. 9)**

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. 2005-424, 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. 9)" adopted on September 6, 2005, 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,

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. 2005-522, adopted on October 11, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for October 11, 2005, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on October 11, 2005, 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.

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. 2005-424 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 11<sup>th</sup> day of October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



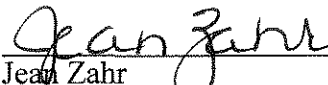
## CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-522, 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. 9) adopted on September 6, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on October 11, 2005, 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. 2005-424, 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. 9)" adopted by the City Council of the City of Modesto on September 6, 2005, 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 71      NO 0

  
\_\_\_\_\_  
Jean Zahr  
City Clerk of the City of Modesto

Dated: 10/14, 2005

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-524**

**A RESOLUTION APPROVING A NEW LEASE AGREEMENT WITH THE  
MODESTO GARDEN CLUB FOR CITY-OWNED PROPERTY AT 622 14<sup>TH</sup>  
STREET, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
AGREEMENT**

WHEREAS, two properties at 618 and 622 14<sup>th</sup> Street were donated to the City to be used for civic purposes, and

WHEREAS, for several years, the City has had a lease agreement with the Modesto Garden Club for the property at 622 14<sup>th</sup> Street; the Garden Club has been responsible for all improvements to the property, as well as any possessory taxes, and

WHEREAS, rent has been \$1 annually; in exchange for use of the property, the Garden Club has provided many beautification projects throughout the City, including the downtown flower pots and hanging baskets, the garden at the Senior Citizens Center, and most notably, the flower clock on the Modesto Centre Plaza grounds; in addition, the Garden Club has made many improvements to the structure and grounds of the property at 622 14<sup>th</sup> Street, primarily through volunteer labor and in-kind services, and

WHEREAS, the current lease expires in 2006; rather than wait until it expires, City staff and the Modesto Garden Club are interested in entering into a new lease at this time to not only more appropriately recognize the contributions of the Garden Club, but also to assure the Club that its investment into the property on 14<sup>th</sup> Street will be protected, and

WHEREAS, the terms of the proposed lease will include an initial term of twenty-five (25) years, with two twenty-five (25) year options and a final twenty-four (24) year option, an annual meeting between City staff and the Garden Club to review and discuss

projects and concerns, an annual presentation to the City Council on the activities of the Garden Club, and the addition of performance standards to allow termination of the leases if the Club ceases to exist, ends its community services, or significantly reduces its level of service, and

WHEREAS, the Safety and Communities Committee met on February 28, 2005, and supported the recommendation to enter into a new lease with the Modesto Garden Club; the Committee requested that the agreement provide for the Garden Club to inform the City of its civic beautification activities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a new lease agreement with the Modesto Garden Club for City-owned property at 622 14<sup>th</sup> Street for an initial term of twenty-five (25) years, with two twenty-five (25) year options and a final twenty-four (24) year option.

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-525**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO THE  
CONTRACT FOR CONSULTANT SERVICES WITH MAZE & ASSOCIATES  
FOR ADDITIONAL WORK AT A COST NOT TO EXCEED \$25,375, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT  
AMENDMENT**

WHEREAS, on April 6, 2004, the Modesto City Council, by Resolution 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 2005-044 approving execution of a First Amendment to the stated 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 Amendment 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 prepare the Annual Report of Financial Transactions required by the State Controller, at a price not to exceed \$21,475 for the three subsequent fiscal years 2005, 2006, and 2007; and, to perform agreed-upon procedures in connection with implementation of Government Accounting Standards Board Statement 45 formalizing treatment of liability for retiree health benefits, and

WHEREAS, this additional work increases the total contract price to an amount not to exceed \$113,870, and

WHEREAS, the contract for these services requires Modesto City Council approval for such additional work, and

WHEREAS, at its October 3, 2005, meeting the Audit Committee recommended that the Council approve payment for the additional work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Agreement for Consultant Services with Maze & Associates, authorizing the additional work proposed, at a cost not to exceed \$25,375.

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 October 25, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-526**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS, FOR THE ACQUISITION OF  
HIGH ACCURACY, HIGH-RESOLUTION ORTHO-PHOTOGRAPHY (AERIAL  
PHOTOGRAPHY), FOR A TOTAL ESTIMATED COST OF \$100,000**

WHEREAS, the City of Modesto last obtained high resolution, ortho-rectified aerial photography in March 2001, and

WHEREAS, the benefits of using the City's current aerial photography are diminishing, and

WHEREAS, this is due to the growth and change of our city landscape, which is not reflected in that one-time snapshot taken in March 2001, and

WHEREAS, continued Citywide growth and change require the need for periodic aerial photography updates, and

WHEREAS, aerial photography is utilized by nearly all of the City's departments including Police, Fire, Public Works, Community and Economic Development, Recreation and Neighborhoods, Finance, and the City Manager's Office, and

WHEREAS, the general public and development community would also have the ability to review the imagery via our public GIS enabled web site (<http://www.modestogov.com/gis>), and

WHEREAS, updating our inventory of current aerial photography will provide staff with a current view of land use patterns and the overall growth of our 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 and, buildings inventory throughout our City, 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 Finance Committee reviewed this request on September 26<sup>th</sup>, 2005, and recommended that it be presented to the full Council on consent,

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 acquisition of high accuracy, high-resolution ortho-photography (aerial photography), 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 October, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-527**

**A RESOLUTION APPROVING THE PURCHASE, MAINTENANCE,  
OPERATING AND REPLACEMENT COSTS OF ONE NEW FULLY EQUIPPED  
COMMUNITY SERVICES OFFICER (CSO) TRUCK**

WHEREAS, the Community Service Officers (CSO) provide significant services to the Police Department and the community and are called upon to handle a multitude of calls requiring them to carry a significant amount of equipment with them at all times, and

WHEREAS, after an analysis of the CSO's duties and responsibilities, it was determined that a pick-up truck with extra cab was required to transport items of evidence to and from the crime scenes and Police Department facilities, and

WHEREAS, the CSO vehicle fleet is at capacity, therefore if any CSO vehicle needs repair or is damaged a shortage of vehicles is created, and

WHEREAS, the addition of this vehicle will fill the CSO vehicle fleet and meet the deployment needs of the Operations Division, and

WHEREAS, the Modesto Police Department is in need of this equipment for the most effective response and utilization of our Community Service Officers, and

WHEREAS, the City will amend the Modesto Police Department's 2005/2006 budget by \$45,588.76 from general fund reserves for the purchase, maintenance, operating and replacement costs of one new fully-equipped CSO truck, and

WHEREAS, the Finance Committee unanimously supported this action at its meeting of September 26, 2005,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby approves the purchase, maintenance, operating and replacement costs of one new fully-equipped Community Services Officer (CSO) truck at the estimated cost of \$45,588.76.

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 special meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-528**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET BY  
\$45,588.76 FROM GENERAL FUND RESERVES TO PURCHASE ONE  
COMMUNITY SERVICE OFFICER (CSO) TRUCK**

WHEREAS, the Community Service Officers (CSO) provide significant services to the Police Department and the community and are called upon to handle a multitude of calls requiring them to carry a significant amount of equipment with them at all times, and

WHEREAS, having CSOs in the field with all the necessary equipment helps to free sworn police officers from calls for service once the situation has been stabilized and no further threat to officers or the public exist, and

WHEREAS, this fully-equipped CSO truck would provide the most effective response and utilization of our Community Service Officers (CSOs), and

WHEREAS, the City will amend the Modesto Police Department's 2005/2006 budget by \$45,588.76 from general fund reserves to purchase and operate one new fully-equipped CSO truck, and

WHEREAS, the Finance Committee unanimously supported this action at its meeting of September 26, 2005.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Annual Budget is hereby amended as follows:

Appropriate:

To:	0100-190-1961-5500	\$ 22,500.00	Vehicle
	0100-190-1961-0307	11,275.00	Vehicle Equipment
	0100-190-1961-0218	11,813.76	Annual Operating Costs
	<b>Total</b>	<b>\$ 45,588.76</b>	

Revenue:

From: General Fund Reserves

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 25<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-529**

**A RESOLUTION APPROVING THE TRANSFER OF FUNDS IN THE AMOUNT  
OF \$40,000 FOR THE ACQUISITION OF OFFICE EQUIPMENT FOR THE  
GANG INTELLIGENCE TASK FORCE, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY  
DOCUMENTS**

WHEREAS, the City of Modesto Police Department, in partnership with other law enforcement agencies including Stanislaus County Sheriff's Department, Ceres Police Department, Stanislaus Probation Department, California State Parole, and the Stanislaus County District Attorney's Office, comprise the Gang Intelligence Task Force, and

WHEREAS, the Modesto Police Department has made a long-term commitment to aggressively combat the proliferation of criminal gangs in our community, and

WHEREAS, the City of Modesto's Gang Intelligence Task Force currently resides in a portable building at 250 E. Hackett Rd and has outgrown this facility, and

WHEREAS, the City of Ceres has offered the Task Force the long-term use of unused office space at the Ceres Police Department, 2727 3<sup>rd</sup> St., Ceres, and

WHEREAS, this office space is offered at no cost to the member agencies of the Task Force, and

WHEREAS, the \$43,000 Asset Forfeiture Funds will be used for the Gang Intelligence Task Force to purchase office equipment for the new facility, and

WHEREAS, the Gang Intelligence Task Force member agencies will be invoiced for their share of the cost of this project and recovered monies will be returned to the Asset Forfeiture Trust Fund, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of October 3, 2005,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the \$43,000 transfer of funds for the acquisition of office equipment for the Gang Intelligence Task Force.

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 special meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of October, 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-530**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS TO TRANSFER FUNDS  
FOR THE ACQUISITION OF OFFICE EQUIPMENT FOR THE GANG  
INTELLIGENCE TASK FORCE**

WHEREAS, the City of Modesto Police Department, in partnership with other law enforcement agencies including Stanislaus County Sheriff's Department, Ceres Police Department, Stanislaus Probation Department, California State Parole, and the Stanislaus County District Attorney's Office comprise the Gang Intelligence Task Force, and

WHEREAS, the City of Modesto's Gang Intelligence Task Force currently resides in a portable building at 250 E. Hackett Rd and has outgrown this facility, and

WHEREAS, the City of Ceres has offered the Task Force the long-term use of unused office space at the Ceres Police Department, 2727 3<sup>rd</sup> St., Ceres, and

WHEREAS, this office space is offered at no cost to the member agencies of the Task Force, and

WHEREAS, the \$43,000 Asset Forfeiture Funds will be used for the Gang Intelligence Task Force to purchase office equipment for the new facility, and

WHEREAS, the Gang Intelligence Task Force member agencies will be invoiced for their share of the cost of this project and recovered monies will be returned to the Asset Forfeiture Trust Fund, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of October 3, 2005,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Operating Budget is hereby amended as follows:

Appropriate:

To: 0100-190-1941-5000 \$43,000 Police Investigative Services

Revenue:

From: 0100-190-1941-7202 \$43,000 Seized Forfeitures

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 special meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-531**

**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, exercise 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 22, 2005 to June 30, 2006, and

WHEREAS, the City shall be compensated by 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 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.).

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 October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-532**

**A RESOLUTION APPROVING A WATER MAIN REIMBURSEMENT  
AGREEMENT BETWEEN THE CITY OF MODESTO AND WILLIAM LYON  
HOMES, A CALIFORNIA CORPORATION, RELATED TO THE REMOVAL  
OF 418 LINEAL FEET OF 8" WATER LINE AND THE INSTALLATION OF  
1340 LINEAL FEET OF A 12" WATER MAIN AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, WILLIAM LYON HOMES, a California Corporation ("Developer"), is in the process of developing a 314 – lot subdivision on property located at the northeast and southeast corners of Fine Avenue and Floyd Avenue, commonly known as Falling Leaf Subdivision ("Subdivision"), and

WHEREAS, in connection with the development of the Subdivision, Developer is required to remove 418 lineal feet of 8" water line and install 1340 linear feet of a 12" water main and appurtenances thereto, located in Floyd Avenue, between Fine Avenue and Claus Road. 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 Subdivision, 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, Developer has requested, and City has agreed that Developer be reimbursed for the actual costs 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 the agreement between the CITY OF MODESTO and WILLIAM LYON HOMES, a California Corporation, related to the reimbursement for the removal of 418 lineal feet and the installation of 1340 lineal feet of 12" water main in the amount of \$101,504.80 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 25<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-533**

**A RESOLUTION APPROVING A 5-YEAR AGREEMENT WITH STOTT OUTDOOR ADVERTISING OF CHICO, CA. TO SELL AND MAINTAIN ADVERTISING ON THE EXTERIORS OF ALL MODESTO AREA EXPRESS (MAX) URBAN SERVICE BUSES FOR A MINIMUM PAYMENT TO THE CITY OF \$6,750 PER MONTH OR 35% OF STOTT'S NET ADVERTISING REVENUE, WHICHEVER AMOUNT IS GREATER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto's Modesto Area Express (MAX) transit system operates approximately 46 buses within the Modesto urban area, and

WHEREAS, a market appears to exist for the placement of advertising on the exteriors of MAX buses, and

WHEREAS, the City Council authorized Public Works Department staff to issue a Request for Proposals (RFP) for the sale, placement and maintenance of advertising on the exteriors of MAX buses in exchange for payment to the City by the selected contractor, and

WHEREAS, three firms submitted proposals in response to the RFP, and

WHEREAS, Stott Outdoor Advertising was selected for award of the contract by a staff selection committee based on criteria included in the RFP, and

WHEREAS, the Economic Development Committee (EDC) approved award of the contract to Stott Outdoor Advertising at its meeting on September 12, 2005, and

WHEREAS, by an agenda report to the City Council dated October 3, 2005, from the Public Works Director, City staff recommended to the Council that it award a contract to Stott Outdoor Advertising for the sale, placement and maintenance of advertising on the exteriors of MAX buses,

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

that that it hereby approves a 5-year agreement with Stott Outdoor Advertising of Chico, Ca. to sell and maintain advertising on the exteriors of all Modesto Area Express (MAX) urban service buses for a minimum payment to the City of \$6,750 per month or 35% of Stott's net advertising revenue, whichever amount is greater.

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 October 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-534**

**A RESOLUTION APPROVING AN AGREEMENT WITH LARRY WALKER ASSOCIATES FOR THE DEVELOPMENT AND IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM FOR A ONE-YEAR AGREEMENT IN AN AMOUNT NOT TO EXCEED \$332,288, WITH ONE (1) ONE-YEAR EXTENSION OPTION IN AN AMOUNT NOT TO EXCEED \$193,000, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$525,288 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Environmental Protection Agency requires all municipalities with populations exceeding 100,000 to apply for a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit, and

WHEREAS, the NPDES permit establishes the requirements for reducing pollutant runoff into the City's storm drains, and

WHEREAS, as part of the City's current NPDES Stormwater Permit, the City was mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management Program, and

WHEREAS, the City completed and adopted its SWMP in September 2003, and

WHEREAS, the City must conduct a monitoring program to characterize the runoff from the City and its impact on local waterways, and

WHEREAS, Stormwater Management Program consultant services provided by a firm with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, the Economic Development Committee recommended support of this item at its meeting on March 7, 2005, and



WHEREAS, Council, by Resolution No. 2005-171, authorized the Public Works Department to solicit Request for Proposals (RFP) for the development and implementation of a Stormwater Management Program, and

WHEREAS, staff solicited RFPs from 84 firms and formally advertised the RFP, and

WHEREAS, six (6) proposals were received and one firm was disqualified for not following the instructions of the RFP, and

WHEREAS, proposals received were evaluated per evaluation criteria defined in the RFP, and

WHEREAS, a committee consisting of City staff from the Public Works Department evaluated the proposals, and

WHEREAS, after evaluations were made, the top two firms were interviewed by Public Works staff, and

WHEREAS, based on proposals, interviews and costs evaluations, preliminary award of contract was given to EOA, Inc., and

WHEREAS, on July 11, 2005 staff received a letter from Larry Walker Associates, the competitive finalist, disputing how the project was awarded, and

WHEREAS, the Public Works Director asked the Purchasing Division to review all documentation regarding this award of contract, and

WHEREAS, after reviewing documentation, Purchasing indicated that the values placed on the cost portion of the evaluation differed from that used by both their division and applied consistently as a standard throughout the City, and

WHEREAS, the appropriate cost methodology was then utilized and Larry Walker Associates became the most responsible bidder, and

WHEREAS, EOA, Inc. sent a letter dated July 21, 2005 to the City Manager expressing their dissatisfaction with the RFP process that led to the change of award, and

WHEREAS, due to the perceived irregularities in the proposal review process, Council authorized rejection of all existing bids and issuance of a new RFP in Resolution No. 2005-438, and

WHEREAS, upon re-issuance of this RFP, staff received three proposals, and

WHEREAS, a panel consisting of two staff members, Mike Gurello from the City of Manteca, and Courtney Vasquez from the City of Stockton interviewed all consultants, and

WHEREAS, Councilmember Janice Keating also observed the consultant interviews, and

WHEREAS, upon completion of the evaluation process, it was determined that Larry Walker Associates is the most-qualified firm based on the total RFP evaluation score, interview evaluation results and costs evaluations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Larry Walker Associates for the development and implementation of a Stormwater Management Program for a one year period in an amount not to exceed \$332,288, with an option for a one (1) one-year extension in an amount not to exceed \$193,000, for a total agreement amount not to exceed \$525,288.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the 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 25<sup>th</sup> day of October 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-535**

**A RESOLUTION AUTHORIZING A TRANSFER OF MONIES TOTALING  
\$289,776 FROM THE SEWER FUND RESERVE TO THE COMPOST FUND  
RESERVE FOR EXPENDITURES INCURRED IN FISCAL YEAR 2004-05, AND  
THEREBY ESTABLISHING A COMPOST FUND RESERVE IN THE AMOUNT  
OF \$197,049**

WHEREAS, the Sewer Fund has fully funded the Compost Facility since it began operations in 1997 at an average cost of \$600,000 per fiscal year, and

WHEREAS, this funding was deemed appropriate because the Compost Facility provided a viable method for reusing biosolids, which are generated as part of the wastewater treatment process, and

WHEREAS, with improved efficiencies in the wastewater treatment process over time, the need for co-composting biosolids has been reduced, and

WHEREAS, in July 2004, Council, by adoption of Resolution 2004-367, separated the Compost Facility from the Sewer Fund and established Compost Operations as a separate Enterprise Fund, and

WHEREAS, more than half of the funding for the newly-created Compost Enterprise was to be provided via revenues from tip fees to the garbage haulers for processing yard waste collected in the green "toters", and

WHEREAS, these costs would be passed on to the ratepayers via the garbage bill, and

WHEREAS, Forestry and Pruned Refuse services performed by City crews were also to be assessed tip fees for waste materials taken to the Compost Facility, and

WHEREAS, because budgets were already in place for FY 2004-05 at the time the Compost Facility became an enterprise, Council authorized Pruned Refuse and Forestry tip fees be paid by the Sewer Fund for 2004-05, and

WHEREAS, biosolids utilized in the co-composting process would also be assessed tip fees and paid for by the Sewer Fund, and

WHEREAS, the Sewer Fund's portion of these estimated revenues in the form of tip fees from Biosolids (\$6.50/ton), Pruned Refuse (\$18.35/ton) and Forestry (\$18.35/ton), totaled \$297,773, and

WHEREAS, Compost was moved to a separate Enterprise Fund on July 1, 2005, and

WHEREAS, the Compost Budget was increased during the course of the fiscal year to reflect increased expenditures primarily for equipment replacement, an item that was not fully funded when Compost resided in the Sewer Fund, and

WHEREAS, the Sewer Fund supported these equipment expenditures via a "transfer in" to the Compost Fund in the amount of \$150,000, and

WHEREAS, the Fleet Replacement Fund also provided a transfer in of \$99,119 to the Compost Fund, and

WHEREAS, even though expenditures exceeded those adopted in FY 2004-05, revenues also exceeded those adopted due to tip fees charged to the garbage haulers and increased compost/co-compost sales, and

WHEREAS, additional revenues, beyond those reflected in the July 2004 staff report to Council, in the amount of \$78,726 for FY 2004-05 were generated through

assessment of a tip fee on materials brought to the facility from collection programs in the City of Stockton, and

WHEREAS, a total of 15,972 tons of Pruned Refuse and Forestry materials were processed at the Compost Facility during FY 2004-05 and no tipping fees were collected, and

WHEREAS, the resulting tip fees owed to the Compost Fund by the Sewer Fund total \$289,776, and

WHEREAS, per Council's July 2004 direction, these funds need to be moved to a Compost Reserve Account, and

WHEREAS, the transfer of these funds will offset a deficit of \$92,727 from FY 2004-05 and will result in a positive cash flow to the Compost Fund of \$197,049, and

WHEREAS, at its meeting of September 26, 2005, the Finance Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a transfer of monies totaling \$289,776 from the Sewer Fund Reserve (6210-800-8000-8003) to the Compost Fund Reserve (6290-800-8000-8003) for expenditures incurred in Fiscal Year 2004-05, and thereby establishing a Compost Fund Reserve in the amount of \$197,049.

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 25<sup>th</sup> day of October 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-536**

**A RESOLUTION AMENDING THE COMPOST FUND FISCAL YEAR 2005-06  
REVENUE AND EXPENSE BUDGETS TO INCLUDE PAYMENT OF RENTAL  
FEES TO THE SEWER FUND IN THE AMOUNT OF \$18,000 ANNUALLY AND  
TO MORE ACCURATELY REFLECT ANTICIPATED REVENUES**

WHEREAS, the Sewer Fund has fully funded the Compost Facility since it began operations in 1997 at an average cost of \$600,000 per fiscal year, and

WHEREAS, this funding was deemed appropriate because the Compost Facility provided a viable method for reusing biosolids, which are generated as part of the wastewater treatment process, and

WHEREAS, with improved efficiencies in the wastewater treatment process over time, the need for co-composting biosolids has been reduced, and

WHEREAS, in July 2004, Council, by adoption of Resolution 2004-367, separated the Compost Facility from the Sewer Fund and established Compost Operations as a separate Enterprise Fund, and

WHEREAS, more than half of the funding for the newly-created Compost Enterprise was to be provided via revenues from tip fees to the garbage haulers for processing yard waste collected in the green "toters", and

WHEREAS, these costs would be passed on to the ratepayers via the garbage bill, and

WHEREAS, Forestry and Pruned Refuse, services performed by City crews, were also to be assessed tip fees for waste materials taken to the Compost Facility, and

WHEREAS, Compost was moved to a separate Enterprise Fund on July 1, 2005, and



WHEREAS, even though expenditures exceeded those adopted in FY 2004-05, revenues also exceeded those adopted due to tip fees charged to the garbage haulers and increased compost/co-compost sales, and

WHEREAS, additional revenues, beyond those reflected in the July 2004 staff report to Council, in the amount of \$78,726 for FY 2004-05 were generated through assessment of a tip fee on materials brought to the facility from collection programs in the City of Stockton, and

WHEREAS, actual revenues for 2004-2005 were substantially different than those adopted in the 2005-2006 Compost budget, and

WHEREAS, expenditures adopted for the 2005-2006 Compost budget did not include rental of the Compost site from the Sewer Fund, and

WHEREAS, staff has estimated a value of \$18,000 per year for rental of the Compost site, and

WHEREAS, at its meeting of September 26, 2005, the Finance Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a budget amendment to increase the Compost Fund expense budget by \$18,000 (6290-480-5222-0215) and to adjust the revenue budget to more accurately reflect 2004-2005 actuals, as follows:

	<b>Adopted 2005-2006 Budget</b>	<b>Amended Budget</b>
<b>Total Expenditures</b>	<b>\$ 990,000</b>	<b>\$ 1,008,000</b>
Compost Sales	\$ 250,000	\$ 405,000
Co-compost Sales	\$ -	\$ -
Harvest Quest	\$ -	\$ -
Tip Fee Biosolids	\$ 8,000	\$ -
Stockton Tip Fees	\$ -	\$ 146,800
Tip Fee Pruned Refuse/Forestry	\$ 129,509	\$ 91,750
Tip Fee Haulers	\$ 732,715	\$ 522,975
Interfund Labor Charges	\$ 23,579	\$ 23,580
<b>Total Revenues</b>	<b>\$ 1,143,803</b>	<b>\$ 1,190,105</b>

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 25<sup>th</sup> day of October 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-537**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 CAPITAL  
IMPROVEMENT PROGRAM BUDGET TO RE-APPROPRIATE NEW AND  
EXISTING PROJECTS AND RECOGNIZE ADDITIONAL REVENUE FOR FY  
2005-2006**

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 2005-2006, and

WHEREAS, specific projects have unspent budgets as of July 1, 2005 which need to be reallocated into FY 2005-2006, and

WHEREAS, additional revenues for fiscal year 2005-2006 have been identified,

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 2005-2006 Capital Improvement Program under the CIP Budget by Fund section of the budget document hereby be re-appropriated into the FY 2005-06 budget.

BE IT FURTHER RESOLVED that additional revenues, which are referenced in the Amended 2005-2006 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 25<sup>th</sup> day of October, 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-538**

**A RESOLUTION ACCEPTING STAFF'S REPORT ON WASTE  
MANAGEMENT'S PERFORMANCE DURING THE PERIOD OCTOBER 1, 2004  
THROUGH JUNE 30, 2005, GRANTING A ONE (1) YEAR EXTENSION OF THE  
INTERIM SERVICE AGREEMENT THROUGH JANUARY 1, 2007, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENSION OF  
THE 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 13th, 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, one (1) year extensions if the company fully complies 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, staff has conducted the second, 9-month review, and believes that the performance improvements reflected by the service logs and the improved operations at Waste Management's transfer station warrant a second, one (1) year extension of the Interim Agreement, and

WHEREAS, at its July 11, 2005, meeting, staff presented a recommendation to the Economic Development Committee that the City Manager be authorized to execute a second, one (1) year extension of the Interim Agreement, through January 1, 2007, and that the City conduct a final performance review in January, 2006, and return to the Council with a recommendation on whether or not the City should enter into negotiations with Waste Management on a new, longer term contract, go out to bid at the end of the additional year, or allocate Waste Management's Service Area to the other collection companies, and

WHEREAS, at its July 11, 2005, meeting, the Economic Development Committee voted unanimously to approve this recommendation,

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

1. Accepts staff's report on Waste Management's performance during the period of October 1, 2004, through June 30, 2005, and
2. Authorizes the City Manager to execute a second, one (1) year extension of the Interim Agreement, through January 1, 2007, and
3. Directs staff to conduct a third performance review in January, 2006, and return to the Council with a recommendation on whether or not the City should either enter into negotiations with Waste Management on a new, longer term contract, go out to bid at the end of the additional year, or allocate Waste Management's Service Area to the other collection companies.

The foregoing resolution was introduced at a public meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of October 2005, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-539

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JOE MENDOZA FROM THE EQUAL OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS COMMISSION

WHEREAS, JOE MENDOZA was appointed a joint member of the Equal Opportunity/Disability Commission and Human Relations Commission on April 5, 2005, and

WHEREAS, JOE MENDOZA has tendered his resignation from the aforementioned committee,

NOW, THEREFORE, BE IT RESOLVED that the resignation of JOE MENDOZA 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 JOE MENDOZA 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 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahir  
JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-540**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF AMY  
CHRISTENSEN FROM THE EQUAL OPPORTUNITY/DISABILITY  
COMMISSION**

WHEREAS, AMY CHRISTENSEN was appointed a member of the Equal Opportunity/Disability Commission on April 5, 2005, and

WHEREAS, AMY CHRISTENSEN has tendered her resignation from the aforementioned committee,

NOW, THEREFORE, BE IT RESOLVED that the resignation of AMY CHRISTENSEN from the Equal Opportunity/Disability 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 AMY CHRISTENSEN 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 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-541**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2004-2005 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 2004-2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2004-2005 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 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Traice Madison  
 Telephone No.: 1-5855  
 Department: Finance

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

Fund Title: Gas Tax

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

### Monthly Adjustment Oct 2005

Fund-Agcy-Obj-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
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#### DEPARTMENTAL REVENUES

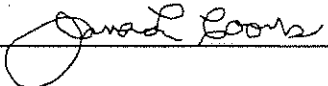
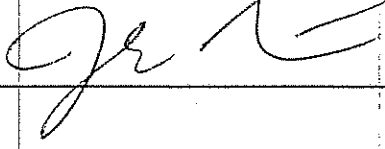
<b>FROM</b>					
06-0700-480-4617-8005			\$133,794	\$133,794	Gas Tax Reserves
<b>TO</b>					
06-0700-480-4617-8005			\$133,794	\$133,794	Gas Tax Reserves

#### APPROPRIATIONS

<b>FROM</b>					
06-0700-800-8000-8003	700R		(\$133,794)	(\$133,794)	Gas Tax Contingency
<b>TO</b>					
06-0700-480-4617-8099	4617V		\$133,794	\$133,794	ABS Savings Carryover

#### COMMENTS/JUSTIFICATION

This monthly adjustment is for the streets maintenance organization. In FY05, Streets had a savings of \$133,794. Since streets funding was made up funding sources other than Gas Tax, savings should be carried over to the current fiscal year continue streets maintenance. This savings was from Org 4612, but a new organization (4617) was created as a multi-year org for future years.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II		29-Sep-05
DEPUTY DIRECTOR (Public Works)		9/30/05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
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: Yvette Ramos  
 Telephone No.: 75249  
 Department: Finance

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

Fund Title: Capital Grants

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

Monthly Adjustment October 21, 2005

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

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

**APPROPRIATIONS**

<u>FROM</u>					Installation of Lighted Crosswalk
MY-2300-160-E710-6010	E710	\$2,000	(\$2,000)		Design
MY-2300-160-E710-6041	E710	26,000	(8,087)	17,913	City Forces
06-700-800-8000-8003	0700R		(\$8,571)		Reserves
<u>TO</u>					
MY-2300-160-E710-6070	E710		\$18,658	\$18,658	Equipment
06-2300-800-8000-8003	2300R		\$8,571		Reserves

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
MY-0700-700-E710-7230			\$8,571		\$ Sent from 0700
<u>TO</u>					
MY-2300-700-E710-9070			\$8,571		\$ received by 2300

**COMMENTS/JUSTIFICATION**

Labor and materials came in higher than budgeted. A budget adjustment is needed for this increase which will be supplemented by a transfer from the gas tax of \$8,571.

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

## REQUEST FOR BUDGET ADJUSTMENT

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

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

Fund Title: Water

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

### October Monthly Adjustment

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

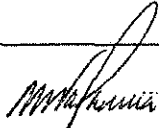

<u>FROM</u>					
MY-6180-430-W708-4354			\$20,000	\$20,000	Developer Contribution
<u>TO</u>					

#### APPROPRIATIONS

<u>FROM</u>					
<u>TO</u>					
MY-6180-430-W708-6010	W436	\$32,975	\$20,000	\$52,975	Galas Water Capacity Study

#### COMMENTS/JUSTIFICATION

Modesto Rancho Encantado (a division of Del Valle Capital Corporation) paid \$20,000 to go towards capacity and hydraulic impact studies pertaining to their Galas development. This adjustment is to amend the FY06 CIP to increase the project amount by the same amount and correct AT 111 and 84 incorrectly entered

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II		
DEPUTY DIRECTOR (Public Works)		
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)		10/6/05
CFE/CFD ADMINISTRATOR		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		10/6/05

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: Tracie Madison/Julie Her  
 Telephone No.: 1-5855  
 Department: Public Works  
 Fund Title: Water

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

**Monthly Adjustment Oct 05**

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
<b>DEPARTMENTAL REVENUES</b>					
<u>FROM</u> MY-6180-430-W368-8121-03			\$700,000	\$700,000	PCE Settlement
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u> MY-6180-430-W368-6041	W430		\$700,000	\$700,000	City Forces Construction

**COMMENTS/JUSTIFICATION**

This budget amendment is being made to 1) recognize revenue received (from various settlements associated with the PCE Litigation), in the amount of \$700,000; 2) amend the FY06 CIP to increase the CIP budget for project account W368 by that same amount in order to mitigate PCE problems associated with Well #21. This action is being taken in order to provide the necessary funding to cover expenses associated with bringing the well back on-line as a viable water source.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>Julie Her</i>	10-10-05
DEPUTY DIRECTOR (Public Works)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>JRH</i>	10/10/05
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

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

Fund Title: Water CIP

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

**Monthly Adjustment Oct05**

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
<b>DEPARTMENTAL REVENUES</b>					
<u>FROM</u>					
MY-6180-480-W336-4354-05			\$1,000,000		Developer Contribution-del Valle
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u>					
MY-6180-480-W336-6051	W336		\$1,000,000	\$1,000,000	Finance Contingency

**COMMENTS/JUSTIFICATION**

Developers have contributed \$1M to be used exclusively for funding Fairview Interim Water Improvements. These improvements will be held in a separate subfund of the Water Fund for tracking purposes and given the CIP #W336 for the Tank 6, 7 and 8 system strengthening. The payment has been deposited and this adjustment is to request we amend the FY06 CIP budget to appropriate the \$1,000,000 toward the project since the work is time sensitive. This CIP will be used to exclusively track costs associated with the improvements outlined in the Agreement.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>Julie Hender</i>	10-10-05
DEPUTY DIRECTOR (Public Works)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>JR</i>	10/11/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFE/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

NO. 4698 P. 2

Contact Person: Jillie Hendon  
 Telephone No.: 22741  
 Department: Public Works

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

Fund Title: Airport Operating Fund

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

MONTHLY ADJUSTMENTS

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

FROM					
TO					

APPROPRIATIONS

FROM					
MY-6310-800-8000-8003	6310R		(\$49,000)	(\$49,000)	Airport Operating Reserve Fund
TO					
6310-440-3412-5XXX	5XXXX		\$49,000	\$49,000	Replace Roof

COMMENTS/JUSTIFICATION

This budget adjustment is being made to transfer funds from Airport Operating Reserves to the Airport Operating Budget to provide the necessary funding for the re-roofing of two airport buildings on the General Aviation side of the Modesto City/County Airport. This transaction will require the establishment of a 5000 object in the Airport Operating Organization for the purpose of tracking these project funds.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II	<i>Jillie Hendon</i>	10-10-05
DEPUTY DIRECTOR (Public Works Dept) <small>AIRPORT MANAGER</small>	<i>[Signature]</i>	10-10-05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>[Signature]</i>	10/11/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR (When necessary for CIP)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

# REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Public Works  
 Fund Title: Water Fund

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

## Monthly Adjustment Oct 05

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

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

### APPROPRIATIONS

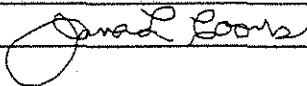
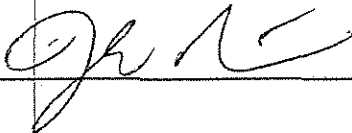
<u>FROM</u>					
06-6100-440-5015-0235	6100C	\$65,253	(\$200)	\$65,053	Professional Svc Water CIP Div
06-6100-480-5009-0235	5009C	\$87,700	(\$200)	\$87,500	Professional Svc Water Ops
06-6100-800-8000-8003	6100R		(\$400)	(\$400)	Water Fund Contingency
06-0100-800-8000-8003	0100R		(\$400)	(\$400)	General Fund Contingency
<u>TO</u>					
06-6100-800-8000-8003	6100R		\$400	\$400	Water Fund Contingency
06-0100-800-8000-8003	0100R		\$400	\$400	General Fund Contingency
06-0100-430-4302-0255	4302C	\$284	\$400	\$684	Public Works Admin Service Credit

### TRANSFERS BETWEEN FUNDS

<u>FROM</u>					
06-6100-700-4302-7010	4302G		\$400	\$400	Transfer for Insurance Certificate
<u>TO</u>					
06-0100-700-4302-9610			\$400	\$400	Transfer for Insurance Certificate

### COMMENTS/JUSTIFICATION

Beginning Oct 2005 thru Jan 06. The Finance Department will begin providing staff support for the insurance certificate program. In order to cover the additional costs of the .75 FTE AOA II Finance will be service crediting Public Works. This adjustment is to move the necessary budget into the 0255 City Forces object to cover additional costs until January.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II		29-Sep-05
DEPUTY DIRECTOR (Public Works Dept)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		9/30/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR (When necessary for CIP)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

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

Council Action Date: Budget adjustments (Oct 12)  
 Resolution Number: \_\_\_\_\_  
 FY: 05-06  
 Transfer No. \_\_\_\_\_

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

<u>FROM</u>						
<u>TO</u> 7210-480-5814-4909			abcd	(3)		To be determined by Fleet after Purchase (abcd)

**APPROPRIATIONS**

<u>FROM</u>						
1300-190-M168-6040	M168	\$1,831,430	(\$160,000)	(1)	\$1,671,430	Reduce CIP project by \$160k
<u>TO</u> 0100-190-19??-5000 0100-190-19??-0218			\$130,000-abcd abcd	(1) & (3) (3)		Establish PD Maintenance acct.
7210-480-5814-5272	5814C		\$30,000	(1)	\$30,000	Establish 5000 acct in Fleet
7210-800-8000-8003			abcd	(3)		To be determined by Fleet after Purchase (abcd)

**TRANSFERS BETWEEN FUNDS**

<u>TO</u>						
7210-700-5814-9010	n/a		\$30,000	2t	\$30,000	Transfer fr Gen Fd to Fleet
1300-700-M168-9010		\$160,000	(\$160,000)	(1t)		Cancel GF transfer to project
<u>FROM</u> 0100-700-5814-7721 0100-700-M168-7130	1300g		\$30,000 (\$160,000)	2t (1t)	\$30,000	Transfer fr Gen Fd to Fleet Cancel GF transfer to project

**COMMENTS/JUSTIFICATION**

MPD requires a tractor to continue construction progress at the Training site. The tractor will cost approximately \$30k. MPD would like the tractor to be set up in the fleet replacement inventory to be maintained by fleet personnel. Vehicle s/b purchased from a vehicle acquisition account and not from the CIP.

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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tina Rocha  
 Telephone No.: Ext. 75321  
 Department: Office of the City Manager

Council Action Date: N/A  
 Resolution Number: N/A

Fund Title: Carver-Bangs/Pelandale-Snyder  
CFD No. 1998-2

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

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

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

**APPROPRIATIONS**

<b>FROM</b>					
2680-800-8000-8208			\$ (77,740.47)		Reserves: One-Time Tax
		<b>TOTAL</b>			
		<b>\$ (77,740.47)</b>			
<b>TO</b>					
2680-020-X583-6030		\$ -	\$ 66,168.92		Land Acq/ROW
2680-020-X583-6040			\$ 11,571.55		Construction
		\$ -		\$ -	
		\$ -		\$ -	
		\$ -		\$ -	
		<b>TOTAL</b>			
		<b>\$ 77,740.47</b>		<b>\$ -</b>	

**COMMENTS/JUSTIFICATION**

This will allow the CFD to reimburse Big Valley Grace Community Church for bike path right-of-way dedication and the installation of bike path fencing. There is no general fund impact.

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. 2005-542**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR TWO (2), NEW, CURRENT YEAR/MODEL, CHEVROLET TAHOE  
VEHICLES FROM AMERICAN CHEVROLET OF MODESTO, CA., FOR AN  
ESTIMATED TOTAL COST OF \$59,694.62**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of two (2), new, current year/model, Chevrolet Tahoe vehicles, and

WHEREAS, the vehicles will be used by the Modesto Fire Department to replace two (2), Ford Explorers that have met their useful life expectancy, and

WHEREAS, the Tahoe's will carry equipment for fire investigations, 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 authorization, and

WHEREAS, the Purchasing Division solicited formal bids for two (2), new, current year/model, Chevrolet Tahoe vehicles on Request for Bid (RFB) 0506-08, and

WHEREAS, nine (9) vendors were solicited for the RFB, and

WHEREAS, there were no responses to the formal RFB by the October 4, 2005 bid due date, and

WHEREAS, the Purchasing Division staff contacted solicited vendors and asked why they did not respond to the RFB, and

WHEREAS, vendors did not respond because of product availability, and they could not supply vehicles which met technical specifications, and

WHEREAS, they also indicated the model/year availability window from the factory could not be met, and

WHEREAS, the Purchasing Division and the Fleet Services staff went to the Chevrolet web site to see what local vendors had stock on the Chevrolet Tahoes, and

WHEREAS, a verbal solicitation was made to those vendors who had Tahoes that met bid specifications, and

WHEREAS, the Purchasing Division and the Fleet Services staff were able to obtain three (3) bids for the Chevrolet Tahoe vehicles, and

WHEREAS, the total cost of the two (2), new, current year/model, Chevrolet Tahoe vehicles is approximately \$59,694.62 including freight and sales tax, and

WHEREAS, American Chevrolet of Modesto, CA., was deemed to be the lowest responsive and responsible bidder, 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, this request for award of bid and contract conforms to City Code, and

WHEREAS, funds are available in account number 7210-480-5814-5256 and 7210-480-5814-5264 (FLEET EQUIP. REPLACEMENT) in the amount of \$59,694.62 for two (2), new, current year/model, Chevrolet Tahoe vehicles,

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, Chevrolet Tahoe vehicles to American Chevrolet of Modesto, CA., for an estimated total cost of \$59,694.62.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to American Chevrolet in the approximate amount of \$59,694.62 toward the purchase of said two (2), new, current year/model, Chevrolet Tahoe vehicles.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-543**

**A RESOLUTION APPROVING A HOUSING MAINTENANCE PROGRAM  
LOAN FOR JEANETTA AYERS, SECURED BY HER HOME AT 2617  
MCADOO AVENUE, MODESTO IN THE AMOUNT OF \$97,657**

WHEREAS, the City of Modesto offers Housing Maintenance Program loans to qualified residents through the Revolving Loan Fund, which was originally funded through the federal Department of Housing and Urban Development (HUD), and

WHEREAS, the Stanislaus County Public Guardian's (PG) office was given temporary conservatorship of Ms. Jeanetta Ayers in February 2005, and she was removed from her home and placed in other housing, and

WHEREAS, the home was filled with junk and debris, inside and out, and

WHEREAS, the County contacted the City about using the Housing Maintenance Program for Ms. Ayers, and

WHEREAS, the home is located at 2617 McAdoo in Highway Village, known as mandatory target area #5, and

WHEREAS, the house was inspected by the Building Inspector and a Notice and Order was recorded against the property, and

WHEREAS, during the last conservatorship hearing in August, the court asked the City and County to proceed with a plan for rehabilitation of the property, and

WHEREAS, the next hearing is scheduled for November 9, 2005, and the City's loan approval will be contingent on court approval that the PG remain as conservator during the housing rehabilitation project, and



WHEREAS, the City will recommend to the court that upon completion of the project and the return of Ms Ayers to the home, that the County remain as conservator for at least 24 months, and

WHEREAS, after the 24-month period the City could request the Court to keep the PG as conservator if the property is not being maintained, and

WHEREAS, the work to be done includes a new roof, installation of central heat and air, a complete interior and exterior remodel, including a complete kitchen and bath, and

WHEREAS, because of the condition of the property the loan amount includes a 10% contingency for unforeseen construction needs and includes re-payment to the City for costs already incurred under the *Advance Payment Agreement*, and

WHEREAS, because Ms. Ayer's social security income is less than 50% of Median Area Income she is eligible for a deferred payment loan, and

WHEREAS, the property is free and clear, excepting a lien placed by the City in 1996 for property clean up, and

WHEREAS, this lien will be paid through the City's new loan; therefore, the new loan will be in first position on the property, and

WHEREAS, since the estimated value of the home after rehab is \$275,000 to \$300,000, the loan-to-value is low, (35% or lower), which puts the City in a secure position in this investment, and

WHEREAS, the loan would be a deferred payment loan at 3% interest, due in 50 years or when Ms. Ayers is no longer living in the home, the loan documents will require bi-annual inspections of the property, and the loan approval will be contingent on court

approval that the Stanislaus County Public Guardian's office remain conservator of Ms. Ayers until completion of the housing rehabilitation project, and

WHEREAS, the Housing Rehabilitation Loan Committee met on October 6, 2005, and supported the recommendation to approve a Housing Maintenance Program loan for Jeanetta Ayers, secured by her home at 2617 McAdoo Avenue, Modesto in the amount of \$97,657,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Housing Maintenance Program loan for Jeanetta Ayers, secured by her home at 2617 McAdoo Avenue, Modesto in the amount of \$97,657.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-544**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH  
STANTEC CONSULTING FOR ADDITIONAL WORK IN THE AMOUNT OF  
\$75,000, TO COMPLETE THE STORM DRAIN MASTER PLAN AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT  
TO AGREEMENT**

WHEREAS, the City of Modesto awarded the Storm Drain Master Plan (SDMP) contract to Stantec Consulting, Inc., (Stantec), in the amount of \$422,170 on August 27, 2002, and

WHEREAS, the SDMP will develop a Citywide, comprehensive Storm Drain Master Plan to properly address the many storm drainage issues facing the City, and

WHEREAS, during the period in which the SDMP is being prepared by Stantec, the City may elect to solicit additional minor input, analysis and recommendations from Stantec, and

WHEREAS, additional tasks requested by the City are required to complete work related to the SDMP beyond the scope of the original agreement in order to: 1) prepare a separate analysis covering the Northeast Area Offsite Watershed; 2) provide an amended version of the draft version of the SDMP dated July 2003 in order to assist the City with addressing current MID issues and concerns regarding acceptance of additional City storm drainage in their facilities; and 3) provide additional reviews and updates pertinent to the SDMP, and

WHEREAS, City desires to pay the amount of the additional work provided by Stantec, which is \$75,000.00, and execute an Amendment to Agreement for Consultant Services with Stantec in said amount, and

WHEREAS, the Acting Public Works Director recommends approving the Amendment to Agreement with Stantec Consulting to perform the additional tasks requested by the City required to complete work related to the SDMP,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Amendment to Agreement with Stantec Consulting for additional work in the amount of \$75,000, to complete the Storm Drain Master Plan.

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 1st day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-545**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO FULLY FUND THE AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING BY (1) RETURNING \$75,000 FROM 6280-430-A213-6010 (STORM DRAINAGE SYSTEM ANALYSIS) TO RESERVES ACCOUNT 6280-800-8000-8003; AND (2) REAPPROPRIATION OF THAT SAME \$75,000 FROM RESERVES TO 6280-440-A231-6010 (STORM DRAIN MASTER PLAN)**

WHEREAS, in August 2002, the City began a project to develop a Citywide, comprehensive Storm Drain Master Plan (SDMP) to properly address the many storm drainage issues facing the City, and

WHEREAS, the City has deemed additional work to be important to the completion of the SDMP that was not included in the original project scope, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Amendment to Agreement as there is insufficient revenue available in the CIP Account 6280-440-Q231-6010 "Storm Drain Master Plan" to fund the Amendment to Agreement in the amount of \$75,000, and

WHEREAS, \$75,000 is to be returned to reserves Account 6280-800-8000-8003 from CIP Account 6280-430-A213-6010 "Storm Drainage System Analysis," and

WHEREAS, that same \$75,000 is to be reappropriated from reserves to the CIP Account 6280-440-Q231-6010 "Storm Drain Master Plan,"

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 Amendment to Agreement with Stantec Consulting for engineering services for the SDMP project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-546**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
“FREEDOM NEIGHBORHOOD PARK” AND AUTHORIZING STAFF TO RE-  
ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the bid received for Freedom Neighborhood Park was opened at 11:00 a.m. on October 4, 2005, 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 consultant architect’s estimate. 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 “Freedom Neighborhood Park,” opened in the office of the City Clerk on October 4, 2005, 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 1<sup>st</sup> day of November 2005, by Councilmember Jackman, 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, Jackman, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-547**

**A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 20 TO  
THE VILLAGE ONE SPECIFIC PLAN TO MODIFY POLICIES RELATED TO  
THE DEVELOPMENT OF THE VILLAGE CENTER, PROPERTY LOCATED  
AT THE SOUTHEAST CORNER OF FLOYD AVENUE AND ROSELLE  
AVENUE. (BEST PROPERTIES)**

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, Best Properties has filed an application to amend the Village One Specific Plan to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue, and

WHEREAS, on October 17, 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. 2005-39, recommended to the City Council approval of an amendment to the Village One Specific Plan to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on November 1, 2005, 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. 20 to the Village One Specific Plan to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue 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 Center would not be changed by the amendment, and the Village One Specific Plan is hereby amended to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue as shown on Exhibit "A" attached hereto 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 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-05-003). 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 1st day of November 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Dunbar

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**EXHIBIT "A"**  
**VILLAGE ONE SPECIFIC PLAN AMENDMENT NO. 20**

**Included in the City Council Packet**



# **STAFF PROPOSED SPECIFIC PLAN AMENDMENT**

Precise Plan Area #20  
(Figure III-21)

1. Acreage: 100 Acres
2. Land Use Intensity

There are three alternatives for development of this Precise Plan Area. These are detailed in Section 3, below. Following is a land use summary of the three alternatives:

<u>Land use</u>	<u>Alternative A</u>	<u>Alternative B</u>	<u>Alternative C</u>
Village Commercial Center	10 ac.	10 ac.	12 ac.
Office	6 ac.	8 ac.	5 <sup>a</sup> ac.
Multi-Family	20 ac.	20 ac.	25-28 <sup>b</sup> ac.
Senior Housing/Multi-family	17 ac.	17 ac.	6 <sup>c</sup> ac.
Village Residential	47 ac.	45 ac.	55 ac.
Total	100 ac.	100 ac.	103-106 ac.

- <sup>a</sup> The 5 acres designated office are permitted to be developed as Village Commercial and/or Office and/or Senior Housing and/or Multi-Family.
- <sup>b</sup> The 5 acres of the Multi-Family around the Village Commercial Center may also be developed as Village Residential.
- <sup>c</sup> The 6 acres of Senior Housing shall be exclusively for Senior Housing.

3. Special Considerations

- a. There are three alternative land use configurations for this Precise Plan Area. These are shown in the Figure III-21 diagrams, following pages. The three alternatives are based on three alternative locations for the Village Commercial Center. Descriptions of the three alternatives follow:

Alternative A:

- The Village Commercial Center (10 acres) is located at the northwest corner of Floyd Avenue and Roselle Avenue.
- The remainder of the northwest quadrant of the Precise Plan Area is designated Office (6 acres) and Senior Housing/Multi Family Housing (17 acres).
- The northeast and southeast corners of Floyd Avenue and Roselle Avenue are designated Multi Family Residential (10 acres each). The remainder of these quadrants is designate Village Residential.

### Alternative B

- ~~The Village Commercial Center (10 acres) is located at the northeast corner of Floyd Avenue and Roselle Avenue.~~
- ~~The remainder of the northeast quadrant of the Precise Plan Area is designated Office (7 acres) and Senior/Multi family Housing (17 acres).~~
- ~~The northwest and southeast corners of Floyd Avenue and Roselle Avenue are designated Multi Family Residential (10 acres each). The remainder of these quadrants is designated Village Residential.~~

### Alternative C

- ~~The Village Commercial Center (12 acres) is located at the southeast corner of Floyd Avenue and Roselle Avenue.~~
  - ~~The remainder of the southeast quadrant of the Precise Plan Area is designated Office, which can also be developed as Village Commercial, Senior Housing or Multi Family (5 acres), Senior Housing/Multi family (6 acres), Multi Family Housing, which can also be developed as Village Residential (5 acres), and Village Residential (7 acres).~~
  - ~~The northwest and northeast corners of Floyd Avenue and Roselle Avenue are designated Multi Family Residential (10 acres each). The remainder of these quadrants is designated Village Residential.~~
- b. ~~The decision of which Alternative for this Precise Plan Area will be developed will be based on the location of the Village Commercial Center. The first development proposal for the Village Commercial Center on one of the three sites shown in the alternatives will determine the Alternative chosen for development of this Precise Plan.~~
- c. Ideally, the Village Commercial Center is the first development to occur in this Precise Plan Area. At a minimum, development of the Village Commercial center should precede the development of the 10 acres closest to the Floyd/Roselle intersection on each of the other two corners.
- d. The first phase of development of the Village Commercial Center shall include construction of a supermarket. Construction of other permitted commercial uses may accompany construction of the supermarket subject to the condition that the supermarket shall be the first use to open for business.

- e. The time limit for commencement of construction of the first phase of development of the Village Commercial Center shall not be more than three years from the effective date of approval of the precise Plan by the City Council. One-year time extensions, not to exceed three in number, may be granted by the Planning Commission after benefit of a public hearing, if adequate cause for such time extension is shown by the developer.
- f. If construction of the first phase of the Village Commercial Center does not occur within the specified time limitations, the City may consider Precise Plan applications for development of the Village Commercial Center at one of the other two corners of Floyd and Roselle Avenues.
- g. The Precise Plan shall provide for a maximum of 350,000 square feet of gross leasable area for commercial and office uses distributed in the following manner:
  - 1. The Village Commercial Center will contain a maximum of 215,000 – 250,000 square feet of gross leasable area.
  - 2. The Office designation will contain a maximum of 100,000 – 125,000 square feet of gross leasable area.
- h. The Village Commercial Center should be of a substantially improved design over a typical neighborhood shopping center, reflecting pedestrian orientation and direct linkage to a residential/office complex.
- i. The Village Commercial Center should be designed in accordance with the policies presented in Sections II-G(4) and II-G.
- j. Within each area designated Multi-family, only multi-family uses will be allowed with the following number of dwelling units:
  - 1. The maximum number of dwelling units for each area is calculated as follows:  
 $10 \text{ Acres} \times 26.25 \text{ dwelling units/acre} = \underline{263}$  dwelling units for each 10-acre multi-family site.
  - 2. The minimum number of dwelling units for each area is calculated as follows:  
 $263 \text{ dwelling units} \times 90\% = \underline{237}$  dwelling units for each 10-acre multi-family site.

- k. Within each area designated Senior Housing/Multi-family Housing, either Multi-Family Housing or Senior Housing are allowed. If Multi-Family Housing is developed, the maximum density allowed is 26.75 dwelling units/gross acre, with a minimum density of 90% of the maximum density. If Senior Housing is developed, then the maximum density allowed is 50 dwelling units/gross acre.
  
- l. It is desirable that the City and the property owners in this Precise Plan Area agree on the process for coordinated development of this Precise Plan Area in advance of initiating any development. In any case, a single development entity should manage the development process. This role should include coordinating all aspects of land assemblage and infrastructure improvements, construction of the buildings, and implementation of the sales and leasing programs. In addition, consistent and centralized ongoing management of the retail/commercial components of the Village Center should be maintained.

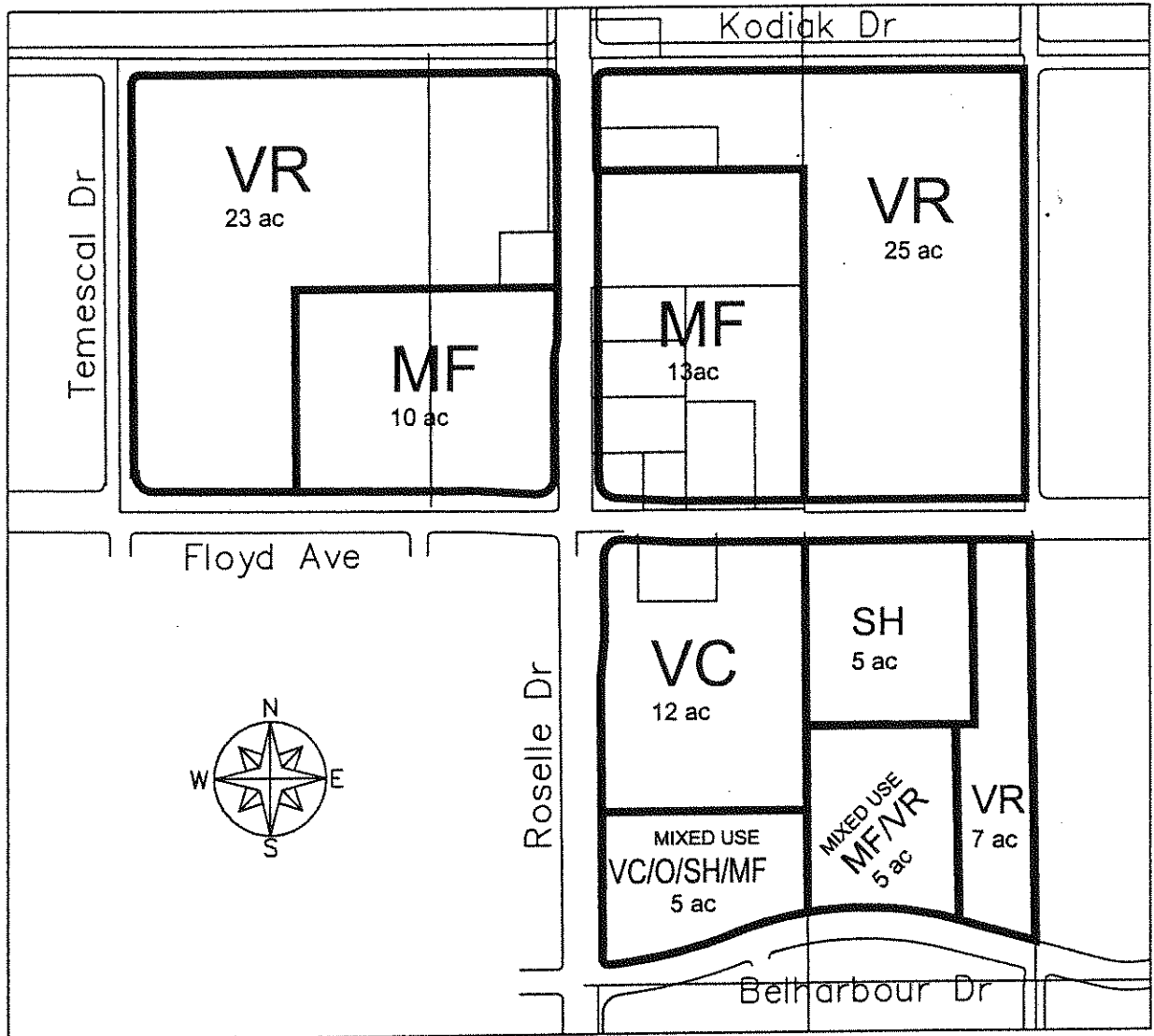


Figure III - 21  
 Precise Plan Area #20  
 -Alternative C-

- VR Village Residential
- MF Multi-Family
- SH/MF Senior Housing & Multi-Family
- O Office
- VC Village Commercial Center

**APPLICANT PROPOSED SPECIFIC PLAN AMENDMENT**

## Specific Plan Amendment Findings

### B. Specific Plan Amendment Process

The following process must be followed in reviewing proposed Specific Plan Amendments:

#### 1. Description of Amendment

Proposals to amend the Village One Specific Plan must be accompanied by detailed information to document the change requested. This information should include a revised Specific Plan Text (or excerpt therefrom) and revised Land Use Diagram, where relevant, depicting the Amendment requested.

*The Village One Specific Plan text proposed for revision is attached.*

#### 2. Presentation of Need for Amendment

Any proposals to amend the Specific Plan must document the need for such changes. The applicant should indicate the economic, social, or technical issues which generate the need to amend the Specific Plan.

*The main text changes are modifications of the architectural and design policies that relate to the Village One Commercial Center. The original design standards would better fit an urban commercial development, and based on the size and shape of the Village Center, do not fit well with a practical commercial layout of the site. As such, these standards are proposed to be modified, or deleted, and some new standards added, which more closely approximate the type of development proposed for the Village One Commercial Center project.*

#### 3. Criteria for Analysis of Amendment

Any proposal to amend the Village One Specific Plan must be accompanied by an analysis of the Amendment's effects, compared to the adopted Specific Plan and any adopted Precise Plans, of the following issues:

- a) Conformance with Specific Plan Guiding Principles in Chapter I of this Specific Plan.

*There are four (4) guiding principles in Chapter I. These are listed and responded to below:*



### C. Guiding Principles of the Village One Specific Plan

The following principles are an integral part of the Village One planning process. These principles shall be followed throughout this Specific Plan and throughout all subsequent processing of land use approvals within the Specific Plan area:

1. Neo-traditional planning concepts are incorporated into the Plan through development of a pedestrian-oriented village that focuses community life within the Village area by orienting the residential neighborhoods to a central Village Center. This center, which contains commercial, civic, cultural and recreational uses, will make pedestrian access available to residents of Village One through a highly interconnected street system providing a direct connection to the Village Center.

*The Village Center will be connected to adjacent development on all four sides by pedestrian access, and to the north and west by vehicular access.*

2. The Village is defined not by its edges nor by isolation from the rest of the City, but rather by a focus of activities that are common to the Village as a whole. Village One is intended to be an integral part of the existing City.

*No changes are proposed which would affect this policy.*

3. The Village streets serve as structuring elements and significant open spaces that contribute to the overall quality of life, as well as fulfill the needs for vehicular and alternative circulation modes, such as transit, bicycle and pedestrian. The Village Center core is directly connected to each residential neighborhood.

*The Village Center is connected to adjacent development on all four sides by pedestrian access points, and to the north and west by vehicular access points.*

4. The Specific Plan creates an overall community identity through the well-ordered compositions of the residential neighborhoods, and activity centers. Each of these levels is organized around a public element, with the districts focus on schools and parks, and individual homes on the character of landscaped streets. These elements of the Village are closely linked with one another in a town pattern designed to facilitate direct access between major activity areas.

*As discussed above, the development will not hamper direct access between major activity areas.*

- b) **Compatibility with any adopted Precise Plans, which will be affected by the Specific Plan Amendment.**

*The adopted Precise Plan is being modified, and these modifications will be processed concurrently with this Specific Plan Amendment.*

- c) **Consistency with the Comprehensive Policies presented in Chapter II of this Specific Plan.**

*Where necessary, the Comprehensive Policies in Chapter II are proposed for revision as needed to be consistent with the proposed request.*

- d) **Compatibility with surrounding existing and planned land uses.**

*There are no proposed changes to land uses in the area.*

- e) **Visual impacts, on-site and off-site.**

*The project will be developed with land uses consistent with the Specific Plan.*

- f) **Traffic impacts.**

*The land uses are consistent with the adopted Specific Plan and EIR, and so the projected traffic generated by the project was analyzed in the existing EIR for the Village One Specific Plan.*

- g) **Preservation of Open Space.**

*The project will not result in the loss of any lands identified for Open Space uses.*

- h) **Public Utilities, documented in Chapter II of this Specific Plan, as well as any adopted Public Facility Master Plans.**

*Utilities will be provided consistent with the Village One Facilities Master Plan.*

### 3. Village Center – Overview

This section defines the purpose of the Village Center, expanding upon the brief narrative presented in Section IIB-2. This narrative is further refined later in Section IIG-4 and supplemented by the narrative for "Precise Plan Area #20," in Chapter III.

The Village Center is essentially a hybrid form of commercial development that includes the best pedestrian-oriented features of the traditional small town and the automobile orientation of strip shopping centers. By locating the Village Center at the heart of the community and concentrating commercial uses within it, the number of daily trips related to automobile traffic can be substantially reduced.

The Village Center is a compact district with a hierarchy of streets, sidewalks, and pedestrian passageways. Commercial buildings are clustered around key intersections and along streets, which lead directly into adjacent residential neighborhoods. Historical precedents for certain design aspects of the Village Center include the traditional main street or commons that forms the focus of small towns throughout the United States.

The Village Center is envisioned as a place where people go on an everyday basis to shop, conduct business, socialize with neighbors, and gather for community events. It serves as one of the fundamental elements for creating a strong sense of community. Therefore, direct access from throughout Village One on both primary and secondary roads is essential.

An attractive image and identity for the Village Center shall be established through the unique configuration of streets and open spaces. Detailed design guidelines shall be maintained, to establish a consistent character and quality standards for buildings.

The creation of an attractive image and identity for the Village Center will add to the potential success of the commercial activities, while simultaneously lending an image and identity to all of Village One, and providing a stronger sense of place and orientation. The design of individual buildings and open spaces can reinforce the role of the place, not only for shopping, but also as a people-oriented gathering place.

### 4. Village Center – Land Use Policies

The following policies should be addressed in the over all design of the Village Center. The term 'should' is advisory. However, attention should be paid to the concepts that follow:

- a) The Village Center will house the major concentration of retail uses within the Village and will also serve as the "living room" of the community and the focus of its social activities. Figure II-2 illustrates a potential Village Center Plan which incorporates an appropriate mixture of land uses in conformance with this policy (see also Precise Plan Area No. 20, in Chapter III).

- b) A concentration and mixture of uses should be provided within the Village Center Plan to accommodate approximately 350,000 of square feet of commercial (retail and office) uses within the core area. Additionally, an appropriate environment should be created for the inclusion of higher density single-family residential dwellings, senior housing, and community facilities.
- c) The Village Center includes a diverse mixture of uses that are concentrated in a distinct district. Boundaries between properties and uses are soft and not clearly delineated. Retail shops, general commercial establishments, and some professional offices will comprise the majority of the local-serving commercial uses. The suggested commercial program for the Village Center is outlined in Precise Plan Area No. 20, in Chapter III.
- d) Higher density single-family and senior housing should ring the Village Center. In addition, selected parcels within the predominantly commercial core are planned to accommodate mixed-use or higher density residential apartments or condominiums.
- e) Emphasis should be placed on pedestrian activities and linkages, and the possibility of future transit should be provided for along Roselle Avenue to serve the Village Center.
- f) The Village Center should be people-oriented and easily accessible to all residents of Village One by foot or bicycle. Due to its important role within the community, the Village Center must also accommodate the required flow of automobile traffic and provide ease of access and parking convenience. ~~However, it is important that the image of the Village Center is not dominated by the automobile.~~
- g) No drive-through commercial facilities (such as those related to financial institutions and fast food enterprises) should be traditionally sited in the Village Center. These uses reduce pedestrian activity and often disrupt retail continuity along the street. They should be sited in the transitional area between the neighborhood commercial area and the offices/multi-family area.
- h) Parking areas should be located so as not to interrupt pedestrian movement along streets and passageways wherever possible. Off-street parking lots should be located behind buildings or screened by landscaping, so that the dominant image of the Village Center is one of buildings and pedestrian activity. The Village Center is a logical location for future transit service due to its concentration of uses, higher density housing, and central location.
- i) Higher density single-family residential uses are permitted within the Village Center where they can take advantage of transit connections along Roselle Avenue and the retail activities focused within the heart of the community. These higher density single-family residential uses may develop at a gross density of approximately ten dwelling units per net acre, and they could consist of either attached or detached housing units.

- j) Mixed-use (residential and retail) developments are encouraged within the Village Center.

A small development with retail on the ground floor and residential development on upper floors is encouraged within the higher density Village Center. While this type of development is relatively unconventional in the Central Valley, it would take advantage of the opportunities in this particular location for the establishment of a small, relatively unique, new urban prototype that is complementary in intensity and in scale with its surroundings.

5. Village Center – Community Design Policies

In addition to the Land Use policies listed above, all developments within the Village Center should incorporate the following Design Policies, as appropriate. The term “should” is advisory. However, attention should be paid to the concepts that follow.

a) Site Design Policies

1. Commercial building parcels should be delineated in various sizes ranging from approximately 30 to 250 foot frontages in order to create architectural variety and a more visually interesting environment for the pedestrian.
2. Residential building parcels within the Village Center should be located outside of the designated core area. These parcels should be large enough to accommodate appropriately scaled, high-density projects.
3. Screened service courts and enclosed trash containers should be required for garbage and delivery.
4. The electrical services and other mechanical areas of buildings should be screened from view or located to minimize their visual appearance.

b) Street Design Policies

1. On-street parking should be provided on both sides of the streets serving the Village Center.
2. All Village Center streets should be designed for 24-inch box street trees with high canopies that could be planted at 20-foot intervals. Tree species should be selected for branching at heights greater than 15 feet, for light, feathery leafing (for visibility to storefronts) and for ease of maintenance.
3. Consistent pedestrian-scale ornamental light fixtures should be utilized along streets in the Village Center. Light fixtures should include attachments for banners and planters. Fixtures should be high-pressure sodium vapor for the best rendition of natural colors.

c) Architectural Design Policies

1. Passageways for pedestrians between parking areas and adjacent streets should be provided. Public passageways between buildings should be landscaped with trees, flowers, sidewalks, and lighting.
2. Commercial projects with multiple buildings, that do not allow on-street parking, should place some buildings along street frontages. Minimal setbacks should occur for landscaping between buildings and street. ~~All commercial buildings should have facades built right to the sidewalk, with no setbacks on the first level, in order to maintain an active and interesting edge for window shoppers, strollers and passersby. There may be variations for landscaping but~~ Off-street parking areas between the street and buildings and public streets should be minimized where practical avoided.
3. Buildings at key intersections should be designed to mark the corner. Various design devices include setbacks at the corner, accentuated architecture entrances, and additional height, using for instance, public gathering places towers and cupolas. By treating intersections as prominent landmarks in the Village, people and visitors are more quickly oriented to the entire district.
4. Blank walls shall not occur where buildings face the public street. These faces shall include architecture similar to the face of the building containing entries and storefronts. While building entries and storefronts are not required along street frontage, the buildings must contain architecture to produce a building with 360 degree articulation. ~~or solid walls (without glazing) should not exceed approximately 30 feet in length at street level so that visual interest is maintained along sidewalks for pedestrians. Walls that are blank should be articulated with murals, trompe l'oeil, or some type of wall detailing, wherever possible.~~
5. ~~Store and building entrances should not be recessed more than ten feet. Doorways should be designed to focus on the street in order to create a more immediate and direct relationship between indoor and outdoor activities.~~
6. Ideally, the height of street-facing facades should be greater than 16 feet but not more than 35 feet, as measured from the grade sidewalk to the top of the cornice. These height limits will ensure an appropriate pedestrian scale for the Village Center.
7. Landscape structures such as portals, trellises, arbors, and benches, shall occur within the parking lot of the project in order to emphasize the pedestrian scale of the project. ~~Buildings overhanging the sidewalk or freestanding shelter structures creating street arcades that intrude into the sidewalks should be continuous, extending along the full length of a block or, at minimum, linking a series of contiguous buildings.~~

8. Awnings should be encouraged, but should not interfere with street tree planting.
9. Storefronts should be encouraged to wrap corners at the building entrance ~~of public passageways~~ and at street intersections in order to create activity ~~and eyes on the street~~ at these critical junctures in the pedestrian network of the Village Center.
10. Consistent wall mounted ~~hung~~ exterior lighting should be used along pedestrian passageways, at corners of buildings, and at the rear of buildings facing the parking lots.
11. Signage should be scaled to the pedestrian.
12. ~~Heraldic signs,~~ Vertical banners stretched between two horizontal standards, should be encouraged.
13. All signage for project tenants shall be individual letters of logos attached to the building. ~~General merchandising and off-premise signs should not be permitted.~~
14. The buildings and streets within the Village Center should be organized to concentrate pedestrian activity within an appropriately scaled district, in order to create a strong sense of identity and community at the geographic center of Village One.
15. People-oriented activities (window shopping, store entrances, cafes, displays, signage) should be focused ~~along the streets and~~ in front of buildings of the Village Center. ~~Parking, deliveries, trash and other ancillary services should be located at the rear of buildings.~~
16. A focused, efficient pattern of buildings and open spaces should be developed in order to concentrate activities, rather than dissipate them in a way that requires greater dependency upon the automobile.
17. Buildings, streets, and parking lots should be designed to be scaled to pedestrians (with regard to such issues as to height and length of walls, the amount of uninterrupted asphalt paving, the width of streets, and the distance between crosswalks, the continuity of shop fronts, the size of signage).
18. The development of pedestrian amenities such as benches, trash receptacles, and pedestrian-scale lighting should be encouraged as well as outdoor cafes and sidewalk magazine stands – all of which enhance the experience of moving through the Village Center by foot.

a) Parking Design Policies

1. An adequate supply of parking should be provided to meet retail needs. In the case of predominantly night time uses, such as nightclubs, shared parking opportunities should be encouraged.

2. ~~On street parking should be provided on all major streets in the Village Center.~~
3. All off-street parking should be generally located to the rear of buildings instead of between the public street and buildings. Access to stores and streets should be easily visible from all areas of the parking lot.
4. ~~Surface parking areas should be constructed in small increments, or large lots should be divided into small areas through the use of landscaping, so that asphalt does not dominate.~~
5. Conversions of surface parking areas to allow additional development utilizing structured parking should be encouraged as market demand increases over time.
6. Trees should be planted at sufficient density in parking lots to meet the objective of achieving an 85% coverage at maturity.
7. Parking lot lighting should be located at frequent intervals for pedestrian orientation. All exterior lighting should be high-pressure sodium vapor fixtures to create an attractive light quality suitable to retail and pedestrian uses.

**Chapter III, Precise Plan Area #20, Special Consideration 3(h): (Page III-51)**

- h. The Village Commercial Center should be of an substantially improved design over a typical neighborhood shopping center, reflecting pedestrian orientation and direct linkage to neighboring land uses ~~a residential/office complex.~~



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-548**

**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. 20 TO THE VILLAGE ONE SPECIFIC PLAN TO AMEND THE VILLAGE ONE SPECIFIC PLAN TO MODIFY POLICIES RELATED TO THE DEVELOPMENT OF THE VILLAGE CENTER, 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 CENTER RETAIL CENTER, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF FLOYD AVENUE AND ROSELLE AVENUE. (BEST PROPERTIES)**

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 Best Properties for an amendment to the Village One Specific Plan to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue, 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 Center (collectively the "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 2005-30, 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. 2005-40, adopted on October 17, 2005, and City staff, by a report dated October 13, 2005, from the Community and Economic Development Department, recommended to the City Council approval of Amendment No. 20 to the Village One Specific Plan to modify design policies related to the development of the Village Center at the southeast corner of Floyd Avenue and Roselle Avenue, 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 Center, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 1, 2005, 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

2005-30, entitled "Village Center Specific Plan Amendment, Precise Plan Amendment, Final Development Plan and Tentative Parcel Map", for the proposed Project, and the Council hereby makes the following findings:

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.

5. The Initial Study, Environmental Assessment EA/C&ED 2005-30, provides the substantial evidence to support findings 1-4, noted above.

A copy of said Environmental Assessment No. EA/C&ED 2005-30, entitled "Village Center Specific Plan Amendment, Precise Plan Amendment, Final Development Plan and Tentative Parcel Map", is on file with the City Clerk.

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 1<sup>st</sup> day of November 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Dunbar

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-549**

**A RESOLUTION APPROVING THE LEASE AGREEMENT BY AND BETWEEN  
THE CITY OF MODESTO AND FMC CORPORATION, INC. AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE  
AGREEMENT**

WHEREAS, on October 18, 1983 and pursuant to City Council Resolution No. 83-676, the City of Modesto ("City") approved a Lease Agreement with FMC Corporation, Inc. ("FMC") for the lease of a portion of City-owned property for the purpose of installing three (3) monitoring wells, and

WHEREAS, on July 23, 1985 and pursuant to City Council Resolution No. 85-482, the City approved a second Lease Agreement with FMC for the lease of a portion of City-owned property for the purpose of installing three (3) additional monitoring wells, and

WHEREAS, the terms of said Leases were both 20 years, and

WHEREAS, said Leases have both expired, and

WHEREAS, FMC is desirous of continuing to maintain five (5) of the monitoring wells in perpetuity for the purpose of assessing the underground aquifer to identify any contamination of the groundwater as a result of past activity on FMC's property in proximity to said monitoring wells, and

WHEREAS, the City and FMC have been working with the State of California to complete a remediation plan to remediate the contamination on FMC's property, and

WHEREAS, the City has determined that the integrity of the water system is paramount to the health and safety of its citizens and the monitoring of the water system is vital to ensure the continual assessment of said water system,

NOW, THEREFORE, BE IT RESOLVED by the City Council that the Lease Agreement for operation of five (5) monitoring wells by and between the City of Modesto and FMC Corporation, Inc., a Delaware corporation, is hereby approved and the term of said Lease Agreement is twenty (20) years.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute on behalf of the City said Lease Agreement, which is attached as Exhibit A and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the City of Modesto held on the 9<sup>th</sup> day of November 2005, 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:	Councilmember:	Dunbar, Jackman, Keating, Marsh, O'Bryant
NOES:	Councilmember:	None
ABSENT:	Councilmember:	Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

## LEASE AGREEMENT

This Indenture of Lease, made and entered into in the City of Modesto, County of Stanislaus, State of California, as of this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and FMC CORPORATION, a Delaware corporation, hereinafter called LESSEE or FMC.

WHEREAS, pursuant to Lease Agreements, encroachment permits, and/or Resolutions adopted by the Council of the City of Modesto in 1983 and 1985, FMC installed some six (6) groundwater monitoring wells on certain CITY premises for purposes of environmental investigations;

WHEREAS, five (5) of these wells, denominated M-112, M-113, M-119, M-120, and M-121, remain active and in use, and are required to be monitored under the terms of an administrative order and monitoring and reporting program issued to FMC by the California Regional Water Quality Control Board for the Central Valley Region ("RWQCB");

WHEREAS, FMC desires a new Indenture of Lease ("Lease Agreement") for purposes of maintenance and use of the five existing groundwater monitoring wells; and

WHEREAS, CITY is willing to enter into a new Lease Agreement upon the terms and conditions set forth below.

THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

That CITY for and in consideration of the covenants, conditions, agreements and stipulations hereinafter expressed, does hereby demise and lease unto LESSEE, and LESSEE hereby hires from CITY the nonexclusive use of those certain premises situated in the City of Modesto, County of Stanislaus, State of California, more particularly shown on the attachment hereto marked "Exhibit A" and more particularly described in the attachment hereto marked "Exhibit B", and by this reference made a part hereof as though set forth in full herein, together with the right of reasonable

access across CITY's adjacent property to maintain, inspect, and test the monitoring wells located on the demised premises.

1. TERM. LESSEE shall be entitled to have and to hold the demised premises, together with the appurtenances, rights, privileges and easements thereunto belonging to or appertaining, for a twenty (20) year term commencing on the date above first written and ending twenty (20) years thereafter.

2. RENTAL. LESSEE shall pay One Hundred and no/100ths Dollars (\$100.00) per year to CITY in consideration of CITY leasing the demised premises to LESSEE, which shall be paid to CITY's Director of Finance, P.O. Box 642, Modesto, California, by January 1, of each year, which shall be considered the due date.

In addition to other remedies contained in this Lease Agreement, in the event any payment is not made on the due date, LESSEE shall pay to CITY a late charge on said unpaid balance calculated at the rate of five percent (5%) per month commencing on the due date and continuing until the date such payment is made.

3. ADDITIONAL CONSIDERATION. LESSEE agrees as further consideration for the lease of the demised premises to not commit or suffer to be committed any waste on the demised premises, to provide CITY with all testing data obtained from the monitoring wells located on the demised premises, and to let CITY make reasonable use of the demised premises as long as CITY's use does not unreasonably interfere with LESSEE's use thereof.

4. USE. LESSEE shall use the demised premises solely for the purpose of maintaining and using five (5) monitoring wells for monitoring groundwater.

5. IMPROVEMENTS. It is understood that any improvements on the demised premises will be done at the sole cost and expense of LESSEE. Except as authorized by paragraph 19 herein, no buildings, structures, or other improvements shall be erected, installed, or placed upon the demised premises unless the consent of CITY's City Manager is first had in writing; however, where such improvements are for purposes



of restricting access or otherwise providing for the security of the monitoring wells, such consent shall not be unreasonably withheld or delayed. LESSEE agrees to notify CITY at the time any improvements are begun so that CITY may post and record Notices of Nonresponsibility. LESSEE agrees not to permit any liens to be placed upon the demised premises by reason of any improvements which it may make thereon and further agrees to hold CITY harmless from any liability to pay for such improvements or liens therefor.

6. RIGHT OF ENTRY UPON PREMISES. CITY and its agents and employees shall have the right to enter upon the demised premises at all reasonable times to inspect the same, to determine if LESSEE is performing the covenants of this Lease Agreement on its part to be performed and to post such reasonable notices as CITY may desire to protect its rights.

7. TAXES. LESSEE recognizes and understands that this Lease Agreement may create a possessory interest subject to property taxation and that LESSEE may be subject to the payment of property taxes on such interest. LESSEE further agrees to pay, without the right to deduct from rental fees provided herein, any and all property taxes, if any, assessed during the term of this Lease Agreement against LESSEE'S possessory interest in the demised premises.

LESSEE further agrees to pay, without right to deduct from rental fees provided herein, any and all personal property taxes assessed against its property on the demised premises, and such portion of any real property taxes as may be levied against improvements owned by LESSEE and erected upon land owned by CITY.

8. UTILITIES. LESSEE agrees to pay all utility bills that may be incurred as a result of its activities or improvements on the demised premises.

9. ASSIGNMENT BY LESSEE. LESSEE shall not assign this Lease Agreement nor any right hereunder, nor sublet the demised premises, nor any part thereof, or suffer any other person or entity to occupy or use the demised premises or any portion thereof, whether through direct assignment, merger, sale of stock or business assets, or otherwise, without the prior written consent of CITY'S City Manager first had and

obtained, and a consent to one assignment, subletting, occupation or use by any other person or entity shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person or entity. Any such assignment, subletting and occupation or use by any other person or entity without such consent shall be void, and shall at the option of CITY'S City Manager, terminate this Lease Agreement. This Lease Agreement shall not, nor shall any interest therein, be assignable, as to the interest of LESSEE by operation of law, without the prior written consent of CITY.

10. INDEMNITY. LESSEE agrees to indemnify, defend and hold CITY, and its officers, agents and employees, free and harmless from any and all liabilities, claims, demands, actions, losses, damages and costs, including all costs of defense thereof, caused by, arising out of, or in any way related to LESSEE'S use or occupancy of the demised premises, or occurring on the demised premises during the term of this Lease Agreement or any time of occupancy of the premises by LESSEE after expiration of this Lease Agreement, including claims, liabilities and actions based upon nuisance or inverse condemnation. Upon demand LESSEE shall, at its own expense, defend CITY, and its officers, agents and employees, against any and all such liabilities, claims, demands, actions, losses, damages and costs. LESSEE shall not be responsible for liability arising from the negligent acts or omissions of CITY, its agents, employees, or invitees.

11. (a) LIABILITY INSURANCE. LESSEE agrees to provide and keep in full force and effect throughout the term of this Lease Agreement a policy of comprehensive public liability insurance, covering any and all claims for injury, sickness and disease, including death therefrom, to any/all persons and damage to property, arising out of LESSEE'S use of, occupancy of, or occurring on the demised premises, with Combined Single Limits of not less than One Million and no/100ths Dollars (\$1,000,000.00). Said policy of insurance so provided shall contain a contractual liability clause covering the liability assumed by LESSEE under the terms of this Lease Agreement. Prior to the commencement of this Lease Agreement, a Certificate evidencing said insurance shall be filed with CITY'S City Clerk. Said Certificate shall provide for a minimum of thirty (30) days' written notice to CITY'S City Clerk in the event of cancellation or material change in the terms of said policy of insurance.

(b) WORKERS' COMPENSATION INSURANCE. LESSEE agrees to provide and keep in full force and effect during the term of this Lease Agreement a policy of Worker's Compensation Insurance, in content and form approved by CITY'S City Attorney, covering all employees of LESSEE who at any time are employed in connection with the operation of LESSEE contemplated herein. The policy of insurance so provided shall contain a provision that such policy shall not be cancelled or terms, coverage or conditions modified except upon thirty (30) days' prior written notice to CITY'S City Clerk. A certificate evidencing the same shall be filed with CITY'S City Clerk.

12. SELF INSURANCE. Notwithstanding any provision of paragraphs 11(a) and 11(b), LESSEE shall have no obligation to provide, maintain or pay for any insurance covering any risk described in paragraphs 11(a) and 11(b) so long as LESSEE shall (i) self-insure such risk on the same terms as set forth in such paragraphs, and (ii) file evidence of such self-insurance with the City Clerk of CITY.

13. TERMINATION BY CITY PRIOR TO EXPIRATION. CITY'S City Manager shall have the right to immediately terminate this Lease Agreement, in whole or in part, on the occurrence of any of the following events:

- a. Failure on the part of LESSEE to pay rent when due.
- b. Filing by or the final adjudication of LESSEE of any petition in bankruptcy or the making of any transfer of general assignment for the benefit of creditors which has not been previously authorized by CITY.
- c. The failure of LESSEE to perform substantially or keep or observe any of the terms, covenants and conditions which it is obligated to perform, keep or observe under this Lease Agreement after the expiration of a fifteen (15) day period of warning or ultimatum given by CITY'S City Manager to LESSEE to correct any such deficiency or default.
- d. The abandonment of the demised premises or any portion thereof, or discontinuance of LESSEE'S operations, or any portion thereof. Should this occur, CITY shall not be responsible for the custodial protection of equipment abandoned, even though it is necessary for CITY to remove same from the demised premises for storage

or disposal.

14. COMPLIANCE WITH LAWS. LESSEE shall not do or suffer to be done on or about the demised premises anything that would or does violate or conflict with any applicable law, ordinance, rule or regulation which is now in force or effect or which may hereafter be enacted or adopted by federal, state, county or municipal authority.

15. VACATING AND RESTORATION OF PREMISES. LESSEE agrees to vacate the demised premises upon completion of the term of this Lease Agreement, or the termination of this Lease Agreement prior to that time, and, upon vacating, LESSEE further agrees, at its sole cost and expense, (i) in accordance with all applicable laws to permanently and effectively abandon any monitoring well(s) that it has installed thereon according to the latest revision of the State Department of Water Resources Bulletins 74-81 and 74-90, Water Well Standards State of California and California Well Standards Water Wells, Monitoring Wells, Cathodic Protection Wells; Supplement to Bulletin 74-81, and (ii) to remove any other improvements it has installed thereon and to otherwise restore the premises to the condition that existed or would have existed in the absence of LESSEE'S use of such premises pursuant to this Lease Agreement. Said abandonment, removal and restoration shall be done to the reasonable satisfaction of CITY'S City Manager or his designee.

16. FAILURE TO VACATE OR RESTORE. In the event that LESSEE fails to vacate, abandon, or restore the wells as provided in paragraph 15, then CITY, or its authorized agents, may enter upon the premises and abandon the monitoring wells in accordance with paragraph 15 and/or remove all of LESSEE'S property therefrom and otherwise restore such premises. In such case, LESSEE agrees to reimburse CITY for any and all reasonable expenses it may so incur and waives any and all claims for damages against CITY, its agents or employees. Nothing herein shall be deemed a waiver of any rights of CITY to demand and obtain possession of the demised premises in accordance with law in the event of a violation on LESSEE'S part of any of the terms or conditions hereof.

17. EARLY TERMINATION BY LESSEE. In the event the demised premises are no longer needed by LESSEE for purposes of maintenance and use of groundwater

monitoring wells, upon sixty (60) days' written notice LESSEE may terminate this Lease Agreement and vacate and restore the premises in accordance with paragraph 15.

18. RELOCATION OF WELLS AND PROVISION OF REPLACEMENT PREMISES. In the event the demised premises are needed by CITY for municipal purposes so that relocation of monitoring wells installed thereupon by LESSEE is necessitated, upon sixty (60) days' written notice by CITY, LESSEE shall, at its sole cost and expense, abandon the wells and vacate and restore the premises in accordance with paragraph 15. CITY shall then make available to LESSEE replacement site(s) for the purposes of installing, maintaining, and using new monitoring wells, which replacement sites(s) shall be as near as possible in location to the demised premises. At that time, LESSEE may choose to install, maintain, and use new wells on the replacement site(s), or may elect to terminate this Lease Agreement. In the event LESSEE chooses to utilize the replacement site(s) for installation, maintenance, and use of new monitoring wells, and from and after the giving by CITY to LESSEE of written authorization to use the replacement site(s) for the same purposes as set forth in paragraph 4 hereof, such replacement site(s) shall be deemed to be the demised premises under this Lease Agreement.

19. PERMISSION. The Modesto City Council, by authorizing and approving this Lease Agreement, hereby gives its permission, as required by Section 5-1.501 of the Modesto Municipal Code, to the maintenance and use of the five (5) monitoring wells on the demised premises pursuant to this Lease Agreement.

20. NONWAIVER. Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

21. COPARTNERSHIP DISCLAIMER. It is mutually understood and agreed that nothing in this Lease Agreement is intended or shall be construed as in any way creating or establishing the relationship of copartners between the parties hereto, or as constituting LESSEE as an agent or representative of CITY for any purpose or in any

manner whatsoever.

22. ATTORNEY'S FEES. In the event that either party hereto shall commence any legal action or proceeding against the other by reason of the alleged failure of the other to perform any term, covenant, or condition of this Lease Agreement by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover a reasonable attorney's fee to be fixed by the court, and such recovery shall include court costs and attorney's fee on appeal if any. As used herein, "the party prevailing" means the party in whose favor final judgment is rendered, and "legal action or proceeding" shall include arbitration.

23. TIME OF ESSENCE, BINDING UPON HEIRS, ETC. Time is of the essence of each and all the terms and provisions of this Lease Agreement and the terms and provisions of this Lease Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

24. NUMBER AND GENDER. All words used herein in the singular number shall include the plural and the present tense shall include the future and the masculine gender shall include the feminine and neuter, as the context may require.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Lease 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 \_\_\_\_\_, 2005, and LESSEE has caused this Lease Agreement to be executed.

CITY OF MODESTO, a municipal corporation

By \_\_\_\_\_, City Manager

FMC CORPORATION

By \_\_\_\_\_

Title \_\_\_\_\_

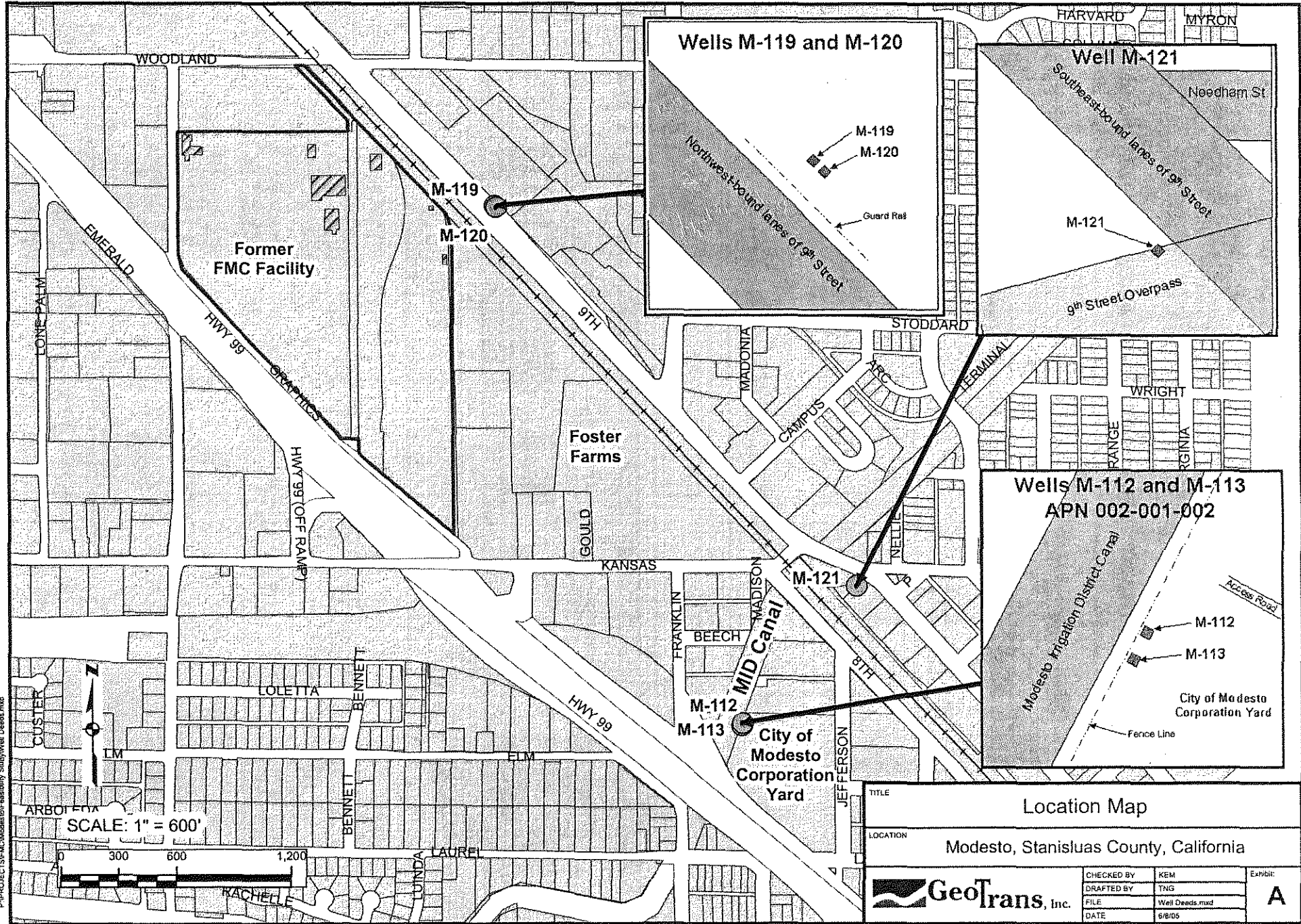
ATTEST

By \_\_\_\_\_, City Clerk

(SEAL)

APPROVED AS TO FORM:

By \_\_\_\_\_, City Attorney



**Wells M-119 and M-120**

M-119  
M-120

Northwest-bound lanes of 9th Street

Guard Rail

**Well M-121**

M-121

Southeast-bound lanes of 9th Street

9th Street Overpass

**Wells M-112 and M-113**  
APN 002-001-002

M-112  
M-113

Modesto Irrigation District Canal

City of Modesto Corporation Yard

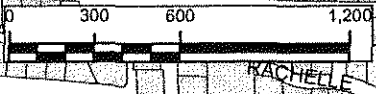
Fence Line

Access Road

TITLE			
Location Map			
LOCATION			
Modesto, Stanislaus County, California			
		CHECKED BY	KEM
		DRAFTED BY	TNG
		FILE	Well Deeds.mxd
		DATE	6/8/05
			Exhibit
			<b>A</b>

P:\PROJECTS\Modesto\Feeability Study\Well Deeds.mxd

SCALE: 1" = 600'





## EXHIBIT B

### DESCRIPTION OF MONITORING WELL SITES

1. Monitoring wells M-112 and M-113 are located approximately 650 feet northwest of the intersection of Elm Street and Jefferson Street, and also approximately 500 feet west of the entrance to the City of Modesto Corporation Yard from Jefferson Street. These wells are within an approximately 300-square foot parcel, identified as APN 002-001-002. Wells M-112 and M-113 are located along the fence line on the northwest parcel boundary parallel with the MID canal. Each well is located within a two-foot cubed concrete monument. The X-Y coordinates for the wells, in the State Plane Coordinate System, North American Datum 83 are: M-112 Easting 6413785.8423 and Northing 2057258.4115; M-113 Easting 6413781.7523 and Northing 2057245.4415.
2. Monitoring wells M-119 and M-120 are located approximately 950 feet southwest from the intersection of Tully Road and Coldwell Avenue. These wells are within an approximately 90-square foot parcel, adjacent to 9<sup>th</sup> Street. Wells M-119 and M-120 are located northeast of the northwest-bound traffic lanes of 9<sup>th</sup> Street. Each well is located within a two-foot cubed concrete monument. The X-Y coordinates for the wells, in the State Plane Coordinate System, North American Datum 83 are: M-119 Easting 6412494.9423 and Northing 2059963.6915; M-120 Easting 6412503.6823 and Northing 2059956.2715.
3. Monitoring well M-121 is located approximately 200 feet southwest of the intersection of Needham Street and Nellie Avenue. This well is within an approximately 600-square foot parcel, adjacent to 9<sup>th</sup> Street. Well M-121 is located under the north side of the 9<sup>th</sup> Street overpass. The well is located within a two-foot cubed concrete monument. The X-Y coordinates for the well, in the State Plane Coordinate System, North American Datum 83 are: M-121 Easting 6414382.9223 and Northing 2057975.8715.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-550**

**A RESOLUTION APPROVING WAIVING PENALTIES FOR MODESTO  
IRRIGATION DISTRICT UTILITY USERS TAX PAYMENTS OF \$58,871.52  
FOR THE MONTH OF OCTOBER 2002 AND \$66,700.42 FOR THE MONTH OF  
OCTOBER 2003 IN EXCHANGE FOR A WAIVER OF \$243,755.77, OR A  
NEGOTIATED LESSER AMOUNT, IN LATE FEES AND PENALTIES,  
RECENTLY ASSESSED TO THE CITY OF MODESTO**

WHEREAS, staff reported to the Finance Committee on June 27, 2005, that in October 2002 and October 2003 Modesto Irrigation District paid their Utility User's Tax after the due date, making them subject to a 15% penalty under Modesto Municipal Code Section 8-2.908, and

WHEREAS, Modesto Irrigation District requested a waiver of said penalties, and

WHEREAS, at its meeting on June 27, 2005, the Finance Committee was reluctant to approve Modesto Irrigation District's request for a waiver and directed staff to research whether the City of Modesto's payment history with Modesto Irrigation District had been timely, and

WHEREAS, City of Modesto Accounting staff researched the City's payment history to Modesto Irrigation District and found outstanding penalties for Domestic Water Treatment Plant service dating back to February 2003 in the amount of \$243,755.77, and

WHEREAS, Section 2-3.406 of the Modesto Municipal Code states that where a fee or charge in excess of twenty-five thousand dollars is incorrectly levied or found to be un-collectable, such accounts will be referred to the City Manager who will promptly report them to the City Council with his/her recommendations, and

WHEREAS, at its meeting on September 26, 2005, the Finance Committee recommended that staff present to City Council the recommendation to allow City staff to waive Modesto Irrigation District penalties in the amount of \$125,571.94 in exchange for a waiver of part or all of the City of Modesto's penalties to Modesto Irrigation District in the amount of \$243,755.77,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves waiving penalties assessed to Modesto Irrigation District in the amount of \$125,571.94 in exchange for a waiver of penalties levied to the City of Modesto by Modesto Irrigation District in the amount of \$243,755.77, or a negotiated lesser amount.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to negotiate and process said waiver of penalties to the Modesto Irrigation District.

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 November 2005 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, Jackman, Keating, Marsh, O'Bryant,

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-551**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR THE PRINTING OF MODESTO AREA EXPRESS (MAX) RIDE GUIDES  
TO SAN DIEGUITO PRINTERS FOR AN INITIAL TWO (2) YEAR PERIOD,  
WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A  
TOTAL ESTIMATED ANNUAL COST OF \$36,090.89**

WHEREAS, the Public Works Department-Transit Division has requested the printing of Modesto Area Express (MAX) Ride Guides, and

WHEREAS, Resolution No. 2005-426 authorized the Purchasing Supervisor to solicit formal bids for the printing of Modesto Area Express (MAX) Ride Guides, and

WHEREAS, Modesto Area Express (MAX) Ride Guides are usually printed twice per year, and

WHEREAS, the ride guides are the only printed materials available to MAX patrons that show the transit system's individual routes and schedules, and

WHEREAS, for each printing the information in the ride guide is updated to show transit riders new routes, schedule changes, service policies and any other information the patron might need to help them ride MAX more efficiently, and

WHEREAS, there is no charge to the public for the ride guides, and

WHEREAS, guides can be obtained either on the bus or at one of the MAX pass outlets throughout the City, and

WHEREAS, the Purchasing Division solicited formal bids for the printing of Modesto Area Express (MAX) Ride Guides on Request for Bid (RFB) 0506-06, and

WHEREAS, eighteen (18) vendors were solicited, and nine (9) of which were local vendors, and

WHEREAS, out of the eighteen (18) vendors solicited, two (2) chose to respond,  
and

WHEREAS, the Purchasing Division and the Public Works-Transit Division staff  
evaluated bids, and

WHEREAS, the maximum total annual cost for printing Modesto Area Express  
(MAX) Ride Guides, including sales tax, is approximately \$36,090.89, and

WHEREAS, San Dieguito Printers of San Marcos CA., is 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 printing Modesto Area  
Express (MAX) Ride Guides in account number 6540-165-1672-0205 (BUS FIXED  
ROUTE MAX OPERATIONS), and

WHEREAS, the Purchasing Division has coordinated the solicitation of and  
evaluation of bids for the printing of Modesto Area Express (MAX) Ride Guides with the  
Public Works Department-Transit Division staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby awards the bid and contract for the printing of Modesto Area Express  
(MAX) Ride Guides to San Dieguito Printers of San Marcos, CA., for an initial two (2)  
year period, with three (3) one-year contract extension options for a total estimated  
annual cost of \$36,090.89.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for the printing of Modesto Area Express (MAX) Ride Guides for a total estimated annual cost of \$36,090.89.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-552**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACTS FOR THE FURNISHING OF POLYGRAPH EXAMINATION SERVICES FOR THE POLICE DEPARTMENT, TO CENTRAL COAST POLYGRAPH, INC., SCOTTS VALLEY, CA, AS THE "PRIMARY" CONTRACTOR, WITH DEE MOODY POLYGRAPH & INVESTIGATIONS, FOSTER CITY, CA, AS THE "SECONDARY" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF \$18,750**

WHEREAS, the use of pre-employment polygraph investigation provides very useful information for the Police Department, which is used during the background investigation of applicants, and

WHEREAS, the Police Department does not have any qualified in-house polygraph examiners, nor does it have the staffing to dedicate an existing employee to perform polygraph examinations, and

WHEREAS, the start up costs and salary of an in-house examiner would exceed the cost associated with outsourcing this service, and

WHEREAS, on May 15, 2002, the Police Department entered into a three (3) year contract for polygraph examination services, as part of a pre-employment program on all sworn employment applicants, and

WHEREAS, polygraphs have proven to be a useful tool in identifying the most qualified candidates for police officer and reserve police officer positions for the City. Approximately 125 polygraph examinations are administered each year, and

WHEREAS, on April 26, 2005, Council approved Resolution No. 2005-186, authorizing the Purchasing Supervisor to formally solicit proposals for the furnishing of

polygraph examination services for the Police Department, for a two (2) year agreement, with three (3) one-year extension options, and

WHEREAS, the Purchasing Division solicited Request for Proposal No. 0405-27, for the furnishing of polygraph examination services, to fourteen (14) companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, of the fourteen (14) companies solicited, three (3) companies chose to respond, and

WHEREAS, of those three (3) companies, two (2) companies provided responsive and responsible proposals, and

WHEREAS, proposal language allows the award of proposal and contracts to more than one (1) company, in order to provide backup, or in case the "primary" contractor is unable to meet the City's needs, and

WHEREAS, the secondary or third company could 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 timeframe required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and

WHEREAS, based on being the lowest responsive and responsible proposal, City staff recommends the award of Proposal No. 0405-27 and contract for the furnishing of polygraph examination services, to Central Coast Polygraph, Inc., Scotts Valley, CA, as the "primary" contractor, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of \$18,750, and



WHEREAS, City staff also recommends the award of Proposal No. 0405-27 and contract for the furnishing of polygraph examination services, to Dee Moody Polygraph & Investigations, Foster City, CA, as the “secondary” contractor, for a two (2) year agreement, with three (3) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Proposal No. 0405-27 and contract for the furnishing of polygraph examination services, to Central Coast Polygraph, Inc., Scotts Valley, CA, as the “primary” contractor, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of \$18,750.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby awards Proposal No. 0405-27 and contract for the furnishing of polygraph examination services, to Dee Moody Polygraph & Investigations, Foster City, CA, as the “secondary” contractor, for a two (2) year agreement, with three (3) one-year extension options.

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

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 November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-553**

**A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF  
MODESTO AND AMERICAN MEDICAL RESPONSE (AMR), WHEREIN AMR  
COMPENSATES THE CITY OF MODESTO \$72,000 PER YEAR FOR FIRST  
RESPONDER AND RELATED MEDICAL SERVICES, PERFORMED BY THE  
MODESTO FIRE DEPARTMENT AND AUTHORIZING THE CITY MANAGER  
TO EXECUTE THE CONTRACT**

WHEREAS, in July 2003, the City of Modesto and AMR entered into a "Pilot" Advanced Life Support (ALS) Program, and

WHEREAS, for over two years, the Modesto Fire Department has been delivering ALS services from one engine company at an annual cost of approximately \$54,000, and

WHEREAS, it has been the goal of the City to operate the ALS program on a cost neutral basis, and

WHEREAS, by executing the above contract that has been negotiated with AMR, the current cost of ALS service will be offset and there will be enough funding for a second ALS engine in the City of Modesto, and

WHEREAS, having two (2) ALS engines would greatly benefit the citizens of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract between the City and AMR.

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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-554**

**A RESOLUTION AUTHORIZING THE ACTING PUBLIC WORKS DIRECTOR  
TO FORMALLY SOLICIT REQUESTS FOR BIDS TO PROVIDE  
CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL  
PARK**

WHEREAS, three City departments desire to develop The Neighborhood Center at Marshall Park located at the southwest corner of Sutter Avenue and Chicago Avenue on the existing Marshall Park site, and

WHEREAS, the City contracted with WLC architects to master plan the building, and

WHEREAS, the final design was presented to City Council on September 28, 2004, and

WHEREAS, WLC has been working on the construction documentation and engineering and is now ready to present the documents and specifications for bidding, and

WHEREAS, staff has produced a cost estimate of \$5.3 million for this project based on the architect's estimate which reflects current market conditions, 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 construction of The Neighborhood Center at Marshall Park located at the southwest corner of Sutter Avenue and Chicago Avenue on the existing Marshall Park site will conform to Modesto Municipal Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for construction of The Neighborhood Center at Marshall Park, located at the southwest corner of Sutter Avenue and Chicago Avenue on the existing Marshall Park site 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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-555**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO: A) DECREASE APPROPRIATION TO CIP PROJECT 1350-310-P503, NEW PARKLAND ACQUISITION, BY \$536,515 AND RETURN TO CFF FUND RESERVE; B) TRANSFER \$536,515 FROM CFF FUND TO SPECIAL FUND FOR CAPITAL OUTLAY ACCOUNT 1350-700-M163; C) DECREASE ACCOUNT 1300-800-8000-8003, SPECIAL FUND FOR CAPITAL OUTLAY BY \$500,000; AND, D) INCREASE CIP PROJECT 1300-310-M163, NEIGHBORHOOD CENTER AT MARSHALL PARK, BY \$1,036,515 TO FULLY FUND THE PROJECT**

WHEREAS, three City departments desire to develop The Neighborhood Center at Marshall Park located at the southwest corner of Sutter Avenue and Chicago Avenue on the existing Marshall Park site, and

WHEREAS, the cost estimate for the project, including construction, is now \$5.3 million, which reflects current market conditions, and

WHEREAS, the current budget for 1300-310-M163, Neighborhood Center at Marshall Park, Capital Improvement Project is \$4,277,485, and

WHEREAS, \$536,515 is available in Capital Improvement Program Project 1350-310-P503, New Parkland Acquisition, and

WHEREAS, \$500,000 is available from the Special Fund for Capital Outlay Reserve, 1300-800-8000-8003, previously allocated to the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 operating and Capital Improvement Program budget to: a) decrease appropriation to CIP project 1350-310-P503, New Parkland Acquisition, by \$536,515, return to CFF Fund Reserve; b) transfer \$536,515 from CFF fund to the Special Fund for Capital Outlay account 1350-700-M163

c) decrease account 1300-800-8000-8003, Special Fund for Capital Outlay by \$500,000; and, d) increase CIP project 1300-310-M163, Neighborhood Center at Marshall Park, by \$1,036,515 to fully fund the project.

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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: M. D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-556**

**A RESOLUTION APPROVING ALLOCATION OF COMMUNITY HOUSING  
DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS IN THE  
AMOUNT OF \$206,372 FOR HABITAT FOR HUMANITY AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE THE 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 Organizations (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 October 26, 2004, by Resolution No. 2004-564, the Modesto City Council authorized staff to send a letter to the three active and approved Community Housing Development Organizations (CHDOs) and invite them to submit a letter of interest if they are interested to apply for these funds, and

WHEREAS, on October 28, 2004, a request for "Letters of Interest" was sent, requesting interested organizations to submit a letter of interest by November 19, 2004, and

WHEREAS, Habitat for Humanity, Stanislaus, was the only CHDO to submit a “Letter of Interest”, and

WHEREAS, according to the “Letter of Interest,” Habitat for Humanity will use the CHDO Set-Aside Fund for one potential project and has verbally discussed several other possibilities, and

WHEREAS, at the December 17, 2004, meeting, the Citizens Housing and Community Development Committee (CH&CDC) recommended the allocation of \$68,791 in CHDO Operating Funds to Habitat for Humanity, and further recommended staff to continue to work with Habitat for Humanity to clarify the proposed scope of the CHDO Set-Aside fund in the amount of \$206,372, and

WHEREAS, on January 4, 2005, the City Council, by Resolution 2005-015, accepted staff’s recommendation to continue working with Habitat for Humanity to clarify the proposed scope of the CHDO Set-Aside fund in the amount of \$206,372, and authorized staff to allocate the CHDO Set-Aside funds to Habitat for Humanity, Stanislaus if the revised proposal is in compliance with the HOME regulations, and staff and the CH&CDC approve the revised proposal, and

WHEREAS, on May 8, 2005, Habitat submitted a CHDO Set-Aside proposal for the Hope Village project and indicated that they are specifically seeking CHDO funds to compliment their technical assistance and building grants and that they will utilize the CHDO funds to pay for demolition of existing units, zoning approval, utility hook up fees, MID line repairs and improvements required to accommodate the addition of 20 units, as well as other required on- and off-site improvements, and

WHEREAS, on June 17, 2005, the CH&CDC reviewed additional information submitted by Habitat clarifying the use of the set aside CHDO funds and recommended staff to move forward and to submit Habitat's proposal to the City Council along with the HOME CHDO Agreement allocating the \$206, 372 in CHDO set aside funds, and

WHEREAS, staff has been preparing the agreement and working with Habitat for Humanity to set up a timeline for the development of this project., and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of Community Housing Development Organization (CHDO) Set-Aside Funds in the amount of \$206,372 for Habitat for Humanity, Stanislaus.

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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-557**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS,  
AWARDING THE BID, AND APPROVING A \$68,800 CONSTRUCTION  
CONTRACT WITH COLLINS ELECTRICAL FOR THE PROJECT ENTITLED,  
“BRIGGSMORE AVENUE STREETLIGHT MODIFICATIONS,” AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT  
AGREEMENT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, “Briggsmore Avenue Streetlight Modifications,” and recommends approval to the City Council, and

WHEREAS, the bids received for the “Briggsmore Avenue Streetlight Modifications” project were opened at 11:00 a.m., on October 4, 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 \$68,800 received from Collins Electrical be accepted as the lowest responsible bid, and the contract be awarded to Collins Electrical,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Briggsmore Avenue Streetlight Modifications” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Collins Electrical in the amount of \$68,800, and hereby awards Collins Electrical the contract for “Briggsmore Avenue Streetlight Modifications.”

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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-558**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS ON THE "2003/04 PAVEMENT  
MAINTENANCE PROGRAM – COFFEE ROAD RECONSTRUCTION FROM  
365' NORTH OF SYLVAN AVENUE TO 2,500' NORTH OF SYLVAN AVENUE"  
PROJECT FROM 10 PERCENT (\$99,325.65) TO 15 PERCENT (\$148,988.48) OF  
THE ORIGINAL CONTRACT PRICE WITH TOP GRADE CONSTRUCTION,  
INC. TOTAL ESTIMATED COST OF THIS PROJECT IS \$1,369,176.18, WHICH  
INCLUDES CONSTRUCTION CONTINGENCY, CONSTRUCTION  
ADMINISTRATION AND ENGINEERING DESIGN**

WHEREAS, on March 22, 2005, 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, authority was granted to issue change orders on said project to 10 percent of the original contract price, and

WHEREAS, the contractor started work on May 23, 2005, and

WHEREAS, extra work is 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 could be as high as 15 percent over the original contract price, an estimated \$148,988.48, 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 \$99,325.65, 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 10 percent (\$99,325.65) to 15 percent (\$148,988.48) 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 special meeting of the Council of the City of Modesto held on the 9th day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-559**

**A RESOLUTION APPROVING THE FINAL MAP OF THE HACIENDA DEL SOL UNIT NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA 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 16.125 acres, known as THE HACIENDA DEL SOL UNIT NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA (“SUBDIVISION”), and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on August 7, 2003, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 25<sup>th</sup> 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 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 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 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-560**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT TO CONSTRUCT NECESSARY INFRASTRUCTURE BETWEEN THE CITY AND DEL VALLE CAPITAL CORPORATION, INC. (DEL VALLE) TO AUTHORIZE FINAL INSPECTION AND OCCUPANCY PERMITS FOR UP TO 58 ADDITIONAL HOMES IN THE GALAS BROTHERS UNIT NO. 1 AND UNIT NO. 2 SUBDIVISIONS, TO INCORPORATE THE TERMS AND PROVISIONS OF THE INTERIM WATER IMPROVEMENTS AGREEMENT DATED SEPTEMBER 30, 2005, TO PROVIDE FOR AN ADDITIONAL DEPOSIT OF FUNDS TO SECURE DEVELOPERS' CONTRIBUTION TO THE COST OF THE INTERIM WATER IMPROVEMENTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY**

WHEREAS, the City entered into an agreement with Del Valle on December 23, 2003, which required Del Valle to complete necessary infrastructure prior to final inspection or occupancy of any home within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions ("Del Valle Agreement"), and

WHEREAS, due to unforeseen circumstances, Del Valle was unable to complete the necessary infrastructure improvements for the water system within the original time frames, and

WHEREAS, this delay impacted Del Valle's ability to meet contractual obligations with developers, and

WHEREAS, Del Valle met with City staff to determine if interim steps could be taken to develop additional sources of water to allow for a certain number of homes to be occupied, and

WHEREAS, on January 25, 2005, by Resolution 2005-66, Council approved an Amendment to the Del Valle Agreement ("Amendment") to allow for phasing in of water

infrastructure associated with the Del Valle project in order to provide occupancy of up to 108 single-family residences prior to final infrastructure completion, and

WHEREAS, the Amendment also authorized the Director to allow occupancy of up to 50 additional homes if the Director determined that sufficient action had been taken to augment the water supply to serve the Del Valle project and there was sufficient water supply available to serve the West Modesto area, and

WHEREAS, as of September 21, 2005, the 108 homes authorized under the Amendment were constructed and permitted for occupancy, and

WHEREAS, West Yost & Associates (WYA) issued a Technical Memorandum – Phase 1 Study that concluded the City’s water system could not meet the minimum standards during high demand periods to existing or new customers without construction of additional infrastructure improvements in South Modesto, and

WHEREAS, based on information provided in the Phase 1 Study, a preliminary cost estimate of additional infrastructure improvements was determined to be up to, but not to exceed, \$1.5 million, and

WHEREAS, on September 30, 2005, the Acting Public Works Director authorized occupancy permits for 50 additional units within the Galas Brothers subdivisions, pursuant to an agreement with Del Valle, D.R. Horton and Pulte Home Corporation (Del Valle/Developers) who agreed to pay up to \$1,250,000 toward the interim water infrastructure improvements necessary to support these units and provided \$1 million as a deposit toward their funding obligation, and

WHEREAS, on October 17, 2005, WYA issued a draft supplemental – Phase 2 Study, amended on November 7, 2005, which identified the necessary Interim Water

Improvements to guarantee adequate water supply to the requested 216 units [108 (Jan. 25, 2005) + 50 (Sep. 30, 2005) + 58 (Nov. 9, 2005)], and

WHEREAS, this Phase 2 Study, as amended, allowed the Acting Public Works Director to make the appropriate findings to recommend the Second Amendment to the Agreement to Construct Necessary Infrastructure between the City and Del Valle (“Second Amendment”) to release an additional 58 homes for final inspection and occupancy, and

WHEREAS, this Second Amendment also incorporates the September 30, 2005 Agreement regarding the Funding and Construction of Certain Interim Water Improvements in Return for City’s Issuance of Certain Permits between the City, Del Valle Corporation, D.R. Horton, Inc., and Pulte Home Corporation (“Interim Water Improvements Agreement”),

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement between the City and Del Valle Capital Corporation, Inc. to authorize final inspection and occupancy permits for up to 58 additional homes in the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, to incorporate the terms and provisions of the Interim Water Improvements Agreement dated September 30, 2005, and to provide for an additional deposit of funds to secure Del Valle/Developers’ contribution toward the cost of the interim water improvements.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-561**

**A RESOLUTION APPROVING AN AMENDMENT TO THE 2005-2006  
CAPITAL IMPROVEMENT PROGRAM (CIP) TO INCREASE THE  
ALLOCATION TO SOUTH MODESTO INTERIM WATER IMPROVEMENTS  
PROJECT, ACCOUNT NO. MY-6181-480-W336, INITIALLY FUNDED AT \$1  
MILLION, WITH ADDITIONAL FUNDING TO BE PROVIDED FOR A TOTAL  
ESTIMATED AMOUNT OF \$1,492,000, AS SPECIFIED IN THE SECOND  
AMENDMENT TO THE AGREEMENT TO CONSTRUCT NECESSARY  
INFRASTRUCTURE BETWEEN THE CITY AND DEL VALLE CAPITAL  
CORPORATION, INC. AND ATTACHMENTS**

WHEREAS, the City entered into an agreement with Del Valle on December 23, 2003, which required Del Valle to complete necessary infrastructure prior to final inspection or occupancy of any home within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions (“Del Valle Agreement”), and

WHEREAS, due to unforeseen circumstances, Del Valle was unable to complete the necessary infrastructure improvements for the water system within the original timeframes, and

WHEREAS, this delay impacted Del Valle’s ability to meet contractual obligations with developers, and

WHEREAS, Del Valle met with City staff to determine if interim steps could be taken to develop additional sources of water to allow for a certain number of homes to be occupied, and

WHEREAS, on January 25, 2005 by Resolution 2005-66, Council approved an Amendment to the Del Valle Agreement with the City to allow for phasing in of water infrastructure to provide for occupancy of 108 homes prior to completion of the permanent water infrastructure, and

WHEREAS, as of September 21, 2005, the 108 homes were constructed and permitted for occupancy, and

WHEREAS, the Amendment also authorized the Director to allow occupancy of up to 50 additional homes if the Director determined that sufficient action had been taken to augment the water supply to serve the Del Valle project and there was sufficient water supply available to serve the West Modesto area, and

WHEREAS, West Yost & Associates issued a Technical Memorandum – Phase I Study that concluded the City’s water system could not meet the minimum standards during high demand periods to existing or new customers without construction of additional infrastructure improvements, and

WHEREAS, based on information provided in the Phase 1 Study, a preliminary cost estimate was determined to be up to, but not to exceed \$1.5 million, and

WHEREAS, on September 30, 2005, the Acting Public Works Director authorized occupancy permits for 50 additional units within the Galas Brothers subdivisions, pursuant to an agreement with Del Valle, D.R. Horton and Pulte Home Corporation (Del Valle/Developers) who agreed to pay up to \$1,250,000 toward the interim water infrastructure improvements necessary to support these units and provided \$1 million as a deposit toward their funding obligation, and

WHEREAS, the proposed Capital Improvement project, Southwest Modesto Interim Water Improvements Project, will include the following infrastructure improvements, and incidental work thereto:

- Increase pumping capacity for Water Tank 6 by addition of a new 100 hp pump and redundant back up pump
- Increase pumping capacity for Water Tank 7 by addition of a new 100 hp pump and redundant backup pump or replace the existing pump with a

new single pump (& associated backup) capable of producing 2400 gallons per minutes (gpm)

- Construct 3800 linear feet of 12” pipeline to parallel the existing 10-inch pipeline along Lassen Avenue
- Increase pumping capacity for Water Tank 8 by addition of a new 100 hp pump and redundant backup pump or replace the existing pump with a new single pump (& associated backup) capable of producing 3700 gpm
- All items as shown on the CIP Budget Estimate,

and

WHEREAS, these infrastructure improvements will primarily be funded through the \$1 million Del Valle/Developers’ contribution for this purpose which resides in South Modesto Interim Water Improvements Project, Account Number MY-6181-480-W336, and the additional \$242,000 contribution which Del Valle/Developers will pay under the Second Amendment to the Del Valle Agreement, and

WHEREAS, the City’s contribution of \$250,000 toward the interim water improvements costs, will be funded through Wellhead Treatment – Primary, Account MY-6180-430-W430, and

WHEREAS, the West Yost Phase 2 Study is completed and the total costs are estimated at \$1,492,000 for the work described in the Study, as amended on November 7, 2005, and

WHEREAS, after receipt of the additional \$242,000 from Del Valle/Developers, the Acting Public Works Director will authorize release of an additional 58 homes in the Galas Brothers subdivisions,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the 2005-06 Capital Improvement Program to increase the allocation to South Modesto Interim Water Improvements Project, initially funded at \$1.0 million, with additional funding to be provided for a total cost of



\$1,492,000, as specified in the Second Amendment to the Agreement to Construct Necessary Infrastructure between the City and Del Valle Capital Corporation and Attachments.

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 special meeting of the Council of the City of Modesto held on the 9th day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-562**

**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. 10)**

WHEREAS, this Council did, on September 13, 2005, adopt its Resolution No. 2005-456 (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. 10 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 23, 2005, 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 29; and

WHEREAS, at the time and date set for the hearing (October 25, 2005 and continued to November 9, 2005) pursuant to the Resolution of Intention to Annex, this Council held the public hearing on Wednesday, November 9, 2005, 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 9th day of November 2005. 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 special meeting of the Council of the City of Modesto held on the 9th of November 2005, 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, Jackman, Keating, Marsh, O'Bryant
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**SAMPLE  
OFFICIAL BALLOT**

BALLOT NO. \_\_\_\_\_

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 10**

**SPECIAL TAX ELECTION**

November 9, 2005

\_\_\_\_% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT  
NUMBER OF VOTES ENTITLED TO BE CAST \_\_\_\_\_  
(VOTER MAY REMOVE AND RETAIN THIS STUB)

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**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. 2005-456, 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. 10)" adopted by the City Council of the City of Modesto on September 13, 2005, 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. 2005-563**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE NOVEMBER 9, 2005, 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. 10)**

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. 2005-456, 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. 10)" adopted on September 13, 2005, 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. 2005-562, adopted on November 9, 2005, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for November 9, 2005, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on November 9, 2005, 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.

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. 2005-456 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 special meeting of the Council of the City of Modesto held on the 9th day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**CERTIFICATE OF CITY CLERK**

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2005-562, 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. 10) adopted on September 13, 2005, by the City Council of the City of Modesto, I did conduct the Special Tax Election on November 9, 2005, 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. 2005-456, 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. 10)" adopted by the City Council of the City of Modesto on September 13, 2005, for the purposes set forth in Resolution No. 2004-199, entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #2), Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District", adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

TOTAL VOTES CAST: YES 2 NO 0

Jean Zahr  
Jean Zahr  
City Clerk of the City of Modesto

Dated: Nov 15, 2005

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-564**

**A RESOLUTION APPROVING THE EXPENDITURE OF THE STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) GRANT MONIES ALLOCATED TO THE CITY OF MODESTO IN THE 2005/2006 FISCAL YEAR**

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 2005/2006 is \$299,591, 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, communication equipment, and field equipment, 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, after holding a public hearing, that it hereby approves the Chief of Police's spending plan for the 2005/2006 State Supplemental Law Enforcement Services Fund allocation of \$299,591 for technology, communication equipment, and field equipment, which was not included in the 2005/2006 budget.

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 November 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-565**

**A RESOLUTION AMENDING THE 2005/2006 FISCAL YEAR BUDGET, TO  
APPROPRIATE REVENUES AND EXPENSES FOR THE STATE OF  
CALIFORNIA 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 2005/2006 is \$299,591, 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, and

WHEREAS, the adopted 2005/2006 Police 05-06 SLESF Grant monies will be applied to 0400-190-2922-5000 budget in the amount of \$299,591 with these funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, after holding a public hearing, that it amends the 2005/2006 budget to appropriate revenues and expenses to 0400-190-2922-5000 for technology, communication

equipment, and field equipment, 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 9<sup>th</sup> day of November 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-566**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MODESTO ORDERING THE CONSOLIDATION OF BOUNDARY MAPS RELATED  
TO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)**

WHEREAS, this Council has, pursuant to its Resolution No. 2004-127, “A Resolution of the City Council of the City of Modesto of Intention to Establish City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Authorize the Levy of Special Taxes Therein,” adopted on March 2, 2004, conducted proceedings for the formation of the City’s Community Facilities District No. 2004-1 (Village One #2) (the “District”) pursuant to Chapter 2.5 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, as a part of the proceedings, a map of the District was approved by this Council and recorded with the County Recorder of the County of Stanislaus in accordance with the Act; and

WHEREAS, as a part of subsequent proceedings related to annexations to the District, maps of the annexed areas were also approved by this Council and recorded with the County Recorder in accordance with the Act; and

WHEREAS, Section 3113.5 of the California Streets and Highways Code authorizes this Council to direct the consolidation of previously recorded maps;

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. The map of the District and the map related to each annexation thereto, being Annexation Nos. 1 through 10, heretofore recorded with the County Recorder pursuant to Sections 3100 and 3110.5 of the California Streets and Highways Code, are hereby ordered consolidated into a single map.

SECTION 3. The City Clerk is directed to cause the consolidated map to be prepared and recorded with the County Recorder pursuant to Sections 3113 and 3113.5 of the California Streets and Highways Code. Upon such recordation, the map of the District, as originally recorded, as well as the maps related to each of the referenced annexations, shall be deemed superseded.

SECTION 4. The title of the map shall be "Boundaries of City of Modesto Community Facilities District No. 2004-1 (Village One #2)" and references on the face of the map, and the cross-indexing by the County Recorder, shall include all maps being superseded.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of November 2005, 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, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-567**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO  
CONFIRMING THE CANVASS OF THE REGULAR MUNICIPAL ELECTION  
WHICH WAS HELD IN THE CITY OF MODESTO ON NOVEMBER 8, 2005,  
AND DECLARING THE RESULTS OF SAID ELECTION**

WHEREAS, on Tuesday, November 8, 2005, a Regular Municipal Election was held in the City of Modesto (herein called "City") and in the Modesto High School District (herein called "District") of Stanislaus County to elect the following:

1. One Councilmember to Chair No. 2 for a four year term;
2. Once Councilmember to Chair No. 4 for a four year term;
3. One Councilmember to Chair No. 5 for a four year term;
4. Four Board of Education Members for four year terms; and

WHEREAS, said election was held on Tuesday, November 8, 2005, in accordance with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined, and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal election in accordance with law, and certified the results of the election of the Council by a Certificate of Canvass and Statement of Votes dated November 18, 2005, a copy of which is attached hereto marked **Exhibit "A"** and made a part hereof,

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

SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit "A" and made a part hereof, shows a complete tabulation of the following:

- (A) The whole number of votes cast in the City.
- (B) The whole number of votes cast in the Modesto High School District.
- (C) The names of the persons voted for.
- (D) For what office each person was voted for.
- (E) The number of votes given in the City to each person.

SECTION 3. That, at said Regular Municipal election, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit "A", are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Chart of the City, to wit:

Janice Keating	Councilmember for a term of four years, Chair No. 2, Modesto City Council.
Nancy Cline	Member, Modesto Board of Education, for a term of four years.
Steve Collins	Member, Modesto Board of Education, for a term of four years.
Belinda Rollicheck	Member, Modesto Board of Education, for a term of four years.
Cindy Marks	Member, Modesto Board of Education, for a term of four years.

SECTION 4. The Charter provides that if no candidate for an elective office of the City receives a majority vote at a regular municipal election, a Second Regular Municipal Election shall be held by mail ballot at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for election of the office, therefore, the two candidates receiving the highest number of votes for City Council Chair 4, Will O'Bryant and Dave Lopez, and the two candidates receiving the highest number of votes for City Council Chair 5, Kristin Olsen and Dennis V. Jackman shall have their names on the ballot for a run-off election to be held on Tuesday, December 13, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> of November 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahrb  
JEAN ZAHRB, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**CERTIFICATE OF CANVASS AND STATEMENT OF VOTE  
CITY OF MODESTO REGULAR MUNICIPAL ELECTION  
November 8, 2005**

I, Jean Zahr, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on November 22, 2005, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 8, 2005, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
<b>Chair 2, Modesto City Council</b>		
Janice Keating	27,475	94.36%
Write-In Candidates	1,642	5.64%
Total Votes Cast for Chair 2	29,117*	100.00%
*Number of Votes for Write-In Candidates includes ballots cast for Marcus Nugent, Qualified Write-In Candidate for Chair 2, and other Non-Qualified Write-In Candidates for Chair 2		
<b>Chair 4, Modesto City Council</b>		
Ralph Saxton	5,810	16.96%
Dave Lopez	12,195	35.60%
Will O'Bryant	16,006	46.73%
Write-In Candidates	244	.71%
Total Votes Cast for Chair 4	34,255	100.00%
<b>Chair 5, Modesto City Council</b>		
George B. Sharp	6,336	18.18%
Kristin Olsen	17,375	49.86%
Denny Jackman	10,893	31.26%
Write-In Candidates	243	.70
Total Votes Cast for Chair 5	34,847	100.00%
<b>Member, Modesto Board of Education – 4 year term</b>		
Nancy Cline	26,333	20.68%
Steve Collins	25,074	19.69%
Belinda Rollicheck	20,303	15.94%
Robin Brown	17,793	13.97%
Cindy Marks	20,177	15.84%
Bob Fromuth	17,219	13.52%
Write-In Candidates	459	.36%
Total Votes Cast for Board of Education	127,358	100.00%

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**VOTER TURNOUT:**

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
City of Modesto Council Seats	97,099	41,098	42.33%
Modesto High School District	123,191	51,267	41.62%

JEAN ZAHR  
City Clerk/Auditor  
City of Modesto

November 22, 2005

MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-568

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
ARNOLD BLANK FROM THE GOLF COURSES ADVISORY  
COMMITTEE

WHEREAS, ARNOLD BLANK was appointed a member of the Golf Courses  
Advisory Committee on July 25, 2000, and

WHEREAS, ARNOLD BLANK has tendered his resignation from the  
aforementioned committee,

NOW, THEREFORE, BE IT RESOLVED that the resignation of ARNOLD  
BLANK from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its  
own behalf, and on behalf of the citizens of this City, hereby expresses its sincere  
appreciation to ARNOLD BLANK 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 22<sup>nd</sup> day of November 2005, by Councilmember  
Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zaher  
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-569**

**A RESOLUTION ADOPTING THE POPULATION-BASED COST-SHARING  
FORMULA FOR THE STANISLAUS REGIONAL 9-1-1 CENTER THAT WAS  
APPROVED BY THE 9-1-1 COMMISSION ON AUGUST 25, 2005**

WHEREAS, on August 27, 1996 the City of Modesto and Stanislaus County entered into an “Emergency Dispatch Agreement”, and

WHEREAS, on September 1, 1999 this agreement expired and the City of Modesto and Stanislaus County entered into a new joint powers agreement for emergency dispatch services, and

WHEREAS, by way of this agreement the Consolidated Emergency Dispatch Agency (Agency) was created, and

WHEREAS, this agreement indicated that the cost-sharing formula utilized in the 1996 agreement would remain in place until a new cost-sharing formula was adopted by the Agency, and

WHEREAS, in 1999, the Warner Group – Management Consultants conducted a cost-sharing model study, and

WHEREAS, this study looked at three alternative cost-share models used by other regional dispatch centers, and

WHEREAS, available records indicate that the Agency Commission reviewed the consultant’s report but a new cost-sharing formula was never adopted, and

WHEREAS, on May 12, 2005, the Joint Powers Agency Commission authorized Paul Stein, Director Stanislaus Regional 9-1-1 to work with the City of Modesto and

Stanislaus County finance officials to meet and discuss options for the cost-sharing formula for Stanislaus Regional 9-1-1 (SR 9-1-1), and

WHEREAS, the 9-1-1 Center Cost Share Formula Team consisting of representatives from SR 9-1-1, the Modesto Police Department, the Modesto Fire Department, the City Manager's Office, the City Finance Department, the Auditor-Controller's Office, the Chief Executive Office, the County Fire Warden's Office, and the Sheriff's Office was formed to study this issue, and

WHEREAS, the team met as a group on June 16, 2005, June 23, 2005, and July 14, 2005 to review the Warner Group study and to discuss possible cost-sharing options, and

WHEREAS, on July 14, 2005, the Cost Share Formula Team reviewed five cost-sharing formula alternatives, and

WHEREAS, after much discussion and analysis the Cost Share Formula Team reached the consensus that the Population Model would be the best fit for SR 9-1-1, and

WHEREAS, the Population Model will be based on the May 2005 California Department of Finance population statistics for Stanislaus County, will take effect July 1, 2006, and will be updated annually thereafter, and

WHEREAS, to ensure that the Population Model continues to accommodate the agencies of SR 9-1-1, the 9-1-1 Center Cost Share Formula Team will conduct a review of the model every three years, and

WHEREAS, during this review the team will compare the cost share burdens associated with the Population Model and the New Santa Cruz Model with the first review scheduled to take place prior to the adoption of the FY 2009/2010 budget, and

WHEREAS, the Population Model was presented to and approved by the 9-1-1 Commission at its open and public meeting held on August 25, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adoption of the population-based cost-sharing formula for the Stanislaus Regional 9-1-1 Center that was approved by the 9-1-1 Commission.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-570**

**A RESOLUTION RESTATING AND AMENDING CITY COUNCIL  
RESOLUTION NO. 2003-626 TO GRANT AN ADDITIONAL TWO YEARS TO  
FULFILL THE CONDITIONS OF ABANDONMENT OF THE PORTION OF  
BEYER PARK DRIVE RIGHT-OF-WAY BETWEEN CLARATINA AVENUE  
AND INSPIRATION DRIVE (FROWEIN; CHAMBERS)**

WHEREAS, Naja & Michael Frowein and Maurice Chambers filed an application to vacate and abandon a portion of the Beyer Park Drive right-of-way, between Inspiration Drive and the future path of Claratina Avenue (“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 the project applicants 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 was referred to affected City departments and local utility companies, and no objection to the Proposed Abandonment has been received, and

WHEREAS, utility easements exist within the subject right-of-way that must be retained sufficient in width to serve existing utility lines and to allow continued maintenance of said lines, and

WHEREAS, Government Code Section 65402 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 public hearing was held by the Planning Commission on October 20, 2003, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing both oral and documentary evidence was received and considered regarding the proposed vacation and abandonment, and

WHEREAS, by Planning Commission Resolution No. 2003-63, 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 alley, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, November 25, 2003, 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 in the proposed right-of-way abandonment area 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, a hearing notice has been published in the Modesto Bee and posted at the project site for two successive weeks prior to the Council hearing in accordance with State of California Streets and Highways Code, Section 8300 through 8363, and

WHEREAS, the Council of the City of Modesto has determined that the Proposed Abandonment be approved 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 not detrimental to the public welfare, and

WHEREAS, on November 25, 2003, the Council of the City of Modesto reviewed the Initial Study (EA/C&ED 2003-85) for the proposed right-of-way abandonment and adopted Resolution No. 2003-627, which determined that the potential environmental effects of the Proposed Abandonment are adequately addressed within the context of the previously-adopted Mitigated Negative Declaration for the North Beyer Park Specific Plan, and

WHEREAS, on October 31, 2005, applicants filed a written request for an eighteen (18) month extension for the abandonment of Beyer Park Drive with the City of Modesto Community and Economic Development Department, and

WHEREAS, Resolution No. 2003-626 is hereby amended solely with respect to the timeframe in which the applicants must fulfill the conditions precedent to the abandonment as set forth in 1.a. thru 1.c. below, and

WHEREAS, Resolution No. 2003-626 is reaffirmed in every other respect and restated in its entirety herein for the sake of administrative convenience.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of

Modesto finds and determines as follows:

1. That the portion of Beyer Park Drive to be abandoned is unnecessary for present or future pedestrian or vehicular use.
2. That Environmental Assessment No. EA C&ED 2003-85 determined that the potential environmental effects of the subdivision are adequately addressed within the context of the previously-adopted Mitigated Negative Declaration for the North Beyer Park Specific Plan.
3. That the vacation and abandonment of the portion of Beyer Park Drive right-of-way between Inspiration Drive and the future path of the Claratina Expressway, 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 the portion of the Beyer Park Drive right-of-way, between Inspiration Drive and the future path of Claratina Avenue, subject to the following conditions:

1. The applicants shall secure and construct the following improvements to the satisfaction of the Engineering and Transportation Director:
  - a. Construction of an eight-foot masonry wall across the opening in the existing wall along the south side of the Claratina Avenue right-of-way at Beyer Park Drive.
  - b. Demolition and removal of the pavement and concrete within the boundaries of the abandoned right-of-way.
  - c. Construction of curb, gutter and sidewalk along the north side of Inspiration Drive/Court.

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 the required conditions have not been fulfilled by November 25, 2007, the conditional right-of-way abandonment shall expire and the Beyer Park Drive shall remain as public right-of-way.

BE IT FURTHER RESOLVED that the Council hereby approves the reservation of public utility easements within the portion of Beyer Park Drive proposed to be abandoned, as follows: a) a 15-foot-wide public utility easement as described in Exhibit "B" attached hereto, and by this reference made a part hereof as though set forth in full herein; and b) the extension of the existing 10-foot-wide public utility easement along the north side of Inspiration Drive, across the abandoned right-of-way area as described in Exhibit "C" attached hereto, and by this reference made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED that the City Clerk shall hold this resolution of abandonment until conditions 1.a. through 1.c. above have been fully satisfied to the satisfaction of the City's Community and Economic Director and not less than five (5) 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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

Exhibit "A"

PARCEL ONE:

THE WEST 1/2 BEYER PARK DRIVE LYING ADJACENT TO AND WEST OF  
LOT 1 IN BLOCK 15019 OF ROSE LANE NO. 5 PER MAP FILED FEBRUARY 11, 2000 IN  
BOOK 38 OF SUBDIVISIONS AT PAGE 97, STANISLAUS COUNTY.

SAID LOT 1 IS APN: 082 15 42

COMMONLY KNOWN AS 1449 INSPIRATION DRIVE, MODESTO CA 95357

PARCEL TWO:

THE EAST 1/2 OF BEYER PARK DRIVE LYING ADJACENT TO AND EAST OF  
LOT 40 IN BLOCK 15004 ROSE LANE NO. 5 PER MAP FILED FEBRUARY 11, 2000 IN  
BOOK 38 OF SUBDIVISIONS AT PAGE 97, STANISLAUS COUNTY.

SAID LOT 40 IS APN: 082 15 40

COMMONLY KNOWN AS 1501 INSPIRATION DRIVE, MODESTO CA 95357

Exhibit "B"

LEGAL DESCRIPTION  
15' SANITARY SEWER EASEMENT

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

Commencing at the intersection of the centerline of 50.00 feet wide Inspiration Drive with the centerline of 60.00 feet wide Beyer Park Drive as shown on the map of Rose Lane No. 5, filed March 1, 2000 in Volume 38 of Maps, Page 97, Stanislaus County Records; thence North 0° 59' 13" West on the centerline of Beyer Park Drive, 25.00 feet to the POINT OF BEGINNING of this description; thence South 89° 00' 47" West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 13.50 feet; thence North 0° 59' 13" West, parallel with and 13.50 feet west of the centerline of Beyer Park Drive, 117.00 feet; thence North 89° 33' 12" East, parallel with and 67.50 feet south of the centerline of Claratina Avenue, 15.00 feet; thence South 0° 59' 13" East, parallel with and 1.50 feet east of the centerline of Beyer Park Drive, 116.86 feet; thence South 89° 00' 47" West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 1.50 feet to the point of beginning,



Date Signed: November 17, 2003

38-111-97

PARCEL 2  
47-PM-9

# ROSE LANE NO. 5

BEING A SUBDIVISION OF A PORTION  
OF PARCEL 4, AS SHOWN IN BOOK 47  
OF PARCEL MAPS AT PAGE 9, & LYING  
WITHIN THE SOUTHWEST QUARTER OF  
SECTION 3, TOWNSHIP 3 SOUTH,  
RANGE 9 EAST, MOUNT DIABLO BASE &  
MERIDIAN, CITY OF MODESTO, COUNTY  
OF STANISLAUS, STATE OF CALIFORNIA

JANUARY, 2000

MID-VALLEY ENGINEERING  
900 "H" STREET - SUITE "G"  
MODESTO, CALIFORNIA 95354  
(209) 526-4214

SANCTUARY COURT

EXISTING  
STORM  
DRAIN  
BASIN

ROSE LANE NO. 1  
37 - M - 71

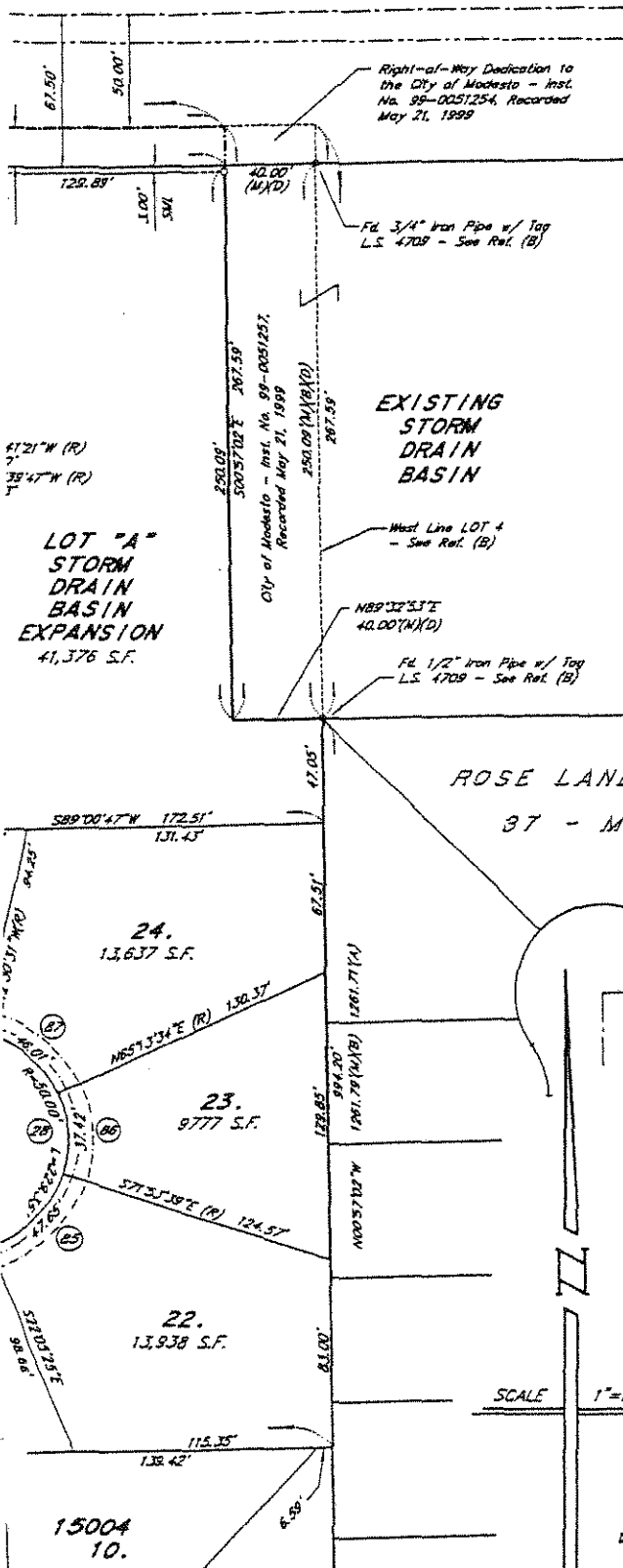
MILESTONE  
CIRCLE

SCALE 1"=50'

#15849  
37.00

Sheet 4 of 4 Sheets

Job No. 70-1284



CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	BEARING
47	0311'54"	3400.00	188.79	84.82	188.78 S0124'15"W
48	0123'01"	3400.00	82.10	41.05	82.10 S0374'43"W
49	0034'36"	3430.00	34.53	17.26	34.53 S0005'37"W
50	0025'10"	3430.00	57.03	28.52	57.03 S0051'30"W
51	0025'11"	3430.00	57.07	28.53	57.07 S0148'40"W
52	0025'44"	3430.00	54.81	27.31	54.82 S0224'38"W
53	0111'32"	3430.00	71.05	35.52	71.05 S0242'37"W
54	0111'33"	3370.00	60.02	30.01	60.01 S0278'55"W
55	0132'43"	3370.00	90.89	45.45	90.89 S0135'54"W
56	0071'02"	1800.00	5.73	2.86	5.73 N0477'45"E
57	0212'02"	1800.00	70.18	35.10	70.18 N0205'16"E
58	0213'46"	1800.00	70.04	35.02	70.04 N0051'22"E
59	0154'36"	1800.00	60.00	30.00	60.00 N0112'49"W
60	0213'48"	1800.00	70.06	35.03	70.06 N0217'01"W
61	0108'16"	1800.00	35.74	17.87	35.74 N0458'04"W
62	0537'37"	1830.00	190.54	95.36	190.46 N0124'15"E
63	0357'28"	1830.00	126.41	63.23	126.38 N0332'27"W
64	0211'36"	1880.00	71.20	35.60	71.20 N0317'26"E
65	0213'06"	1880.00	82.30	41.15	82.29 N0055'34"E
66	0736'21"	1880.00	84.61	42.31	84.61 N0405'22"W
67	0004'38"	1880.00	4.67	2.33	4.67 N0522'33"W
68	0024'30"	1200.00	50.44	25.22	50.43 S0418'52"E
69	0208'28"	1200.00	44.85	22.43	44.84 S0210'21"E
70	0131'54"	1260.00	34.42	17.21	34.42 S0445'47"E
71	0213'47"	1260.00	60.03	30.02	60.02 S0276'24"E
72	0015'17"	1260.00	5.60	2.80	5.60 S0106'32"E
73	4057'06"	50.00	33.73	16.87	34.88 S0805'37"W
74	8045'47"	50.00	53.02	26.51	50.59 N0101'37"W
75	5123'58"	50.00	45.00	24.15	43.50 N0451'44"W
76	5123'58"	50.00	45.00	24.15	43.50 N4542'14"E
77	5728'19"	50.00	50.59	27.70	48.46 S7831'37"E
78	1724'16"	40.00	12.15	6.12	12.10 N2800'31"E
79	8125'33"	40.00	43.00	23.84	40.96 N1329'37"W
80	6237'40"	40.00	43.72	24.33	41.58 N2526'08"W
81	1941'37"	40.00	13.75	6.84	13.68 S8374'14"W
82	3011'15"	50.00	26.34	13.49	26.04 N2531'25"W
83	1113'20"	50.00	9.79	4.91	8.78 N5509'07"W
84	5744'51"	50.00	50.39	27.57	48.29 S7824'51"E
85	5436'20"	50.00	47.65	25.81	45.87 N4524'31"E
86	4722'47"	50.00	37.42	19.63	36.55 N0320'03"W
87	5242'02"	50.00	46.01	24.78	44.40 N5107'57"W
88	5452'08"	50.00	47.88	25.96	45.07 S7504'27"W
89	1214'12"	50.00	10.68	5.36	10.66 N5345'28"E
90	2812'21"	50.00	25.46	13.01	25.18 N2427'47"E
91	0108'26"	40.00	0.80	0.40	0.80 S8245'00"W
92	3431'07"	40.00	24.10	12.43	23.74 N7235'14"W
93	7540'34"	40.00	52.83	31.07	49.07 N5110'30"E
94	2838'52"	40.00	20.00	10.21	19.79 N0058'13"W
95	7540'34"	40.00	52.83	31.07	48.07 N5306'36"W
96	1239'35"	40.00	16.05	8.14	15.94 S7230'59"W
97	1239'35"	40.00	16.05	8.14	15.94 S5841'17"W

38-M-97

Exhibit "C"

LEGAL DESCRIPTION  
10' PUBLIC UTILITY EASEMENT

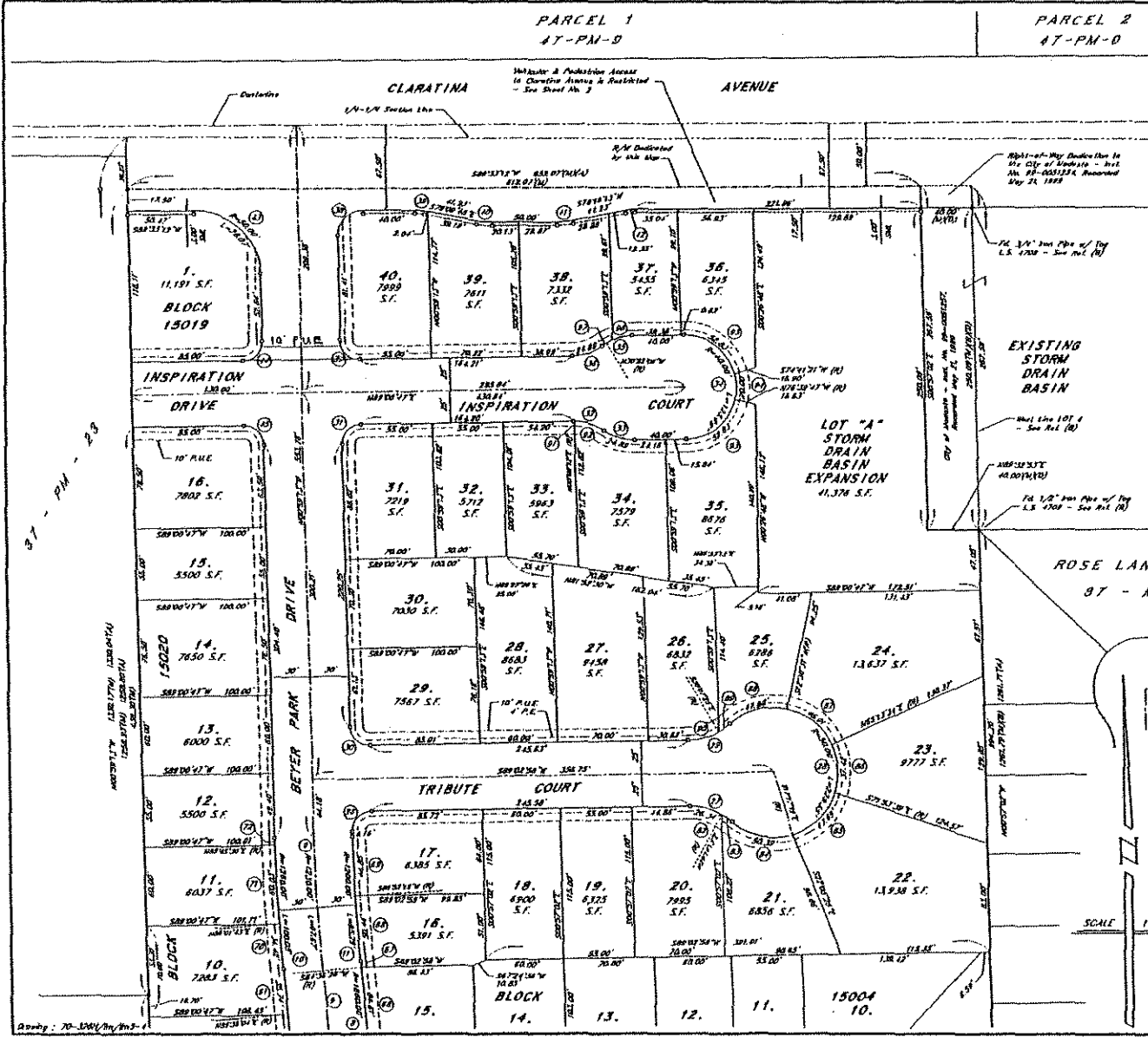
All that certain real property in the southwest quarter of Section 3, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Commencing at the intersection of the centerline of 50.00 feet wide Inspiration Drive with the centerline of 60.00 feet wide Beyer Park Drive as shown on the map of Rose Lane No. 5, filed March 1, 2000 in Volume 38 of Maps, Page 97, Stanislaus County Records; thence North  $0^{\circ} 59' 13''$  West on the centerline of Beyer Park Drive, 25.00 feet to the POINT OF BEGINNING of this description; thence South  $89^{\circ} 00' 47''$  West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 45.00 feet to the point of cusp with a tangent curve concave northwest, having a radius of 15.00 feet and a central angle of  $70^{\circ} 31' 44''$ ; thence northeasterly on the arc of said curve 18.46 feet; thence North  $89^{\circ} 00' 47''$  East, parallel with and 35.00 feet north of the centerline of Inspiration Drive, 61.72 feet to the beginning of a non-tangent curve concave northeasterly having a radius of 15.00 feet and a central angle of  $70^{\circ} 31' 44''$  and from which point the radius point of said curve bears North  $69^{\circ} 32' 31''$  East; thence southeasterly on the arc of said curve 18.46 feet to the point of cusp; thence South  $89^{\circ} 00' 47''$  West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 45.00 feet to the point of beginning.





38-11-97



# ROSE LANE NO. 5

BEING A SUBDIVISION OF A PORTION OF PARCEL 4, AS SHOWN IN BOOK 47 OF PARCEL MAPS AT PAGE 9, & LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE & MERIDIAN, CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

JANUARY, 2000

MID-VALLEY ENGINEERING  
900 "H" STREET - SUITE "G"  
MODESTO, CALIFORNIA 95354  
(209) 526-4214

SANCTUARY COURT

LOT	AREA	PERCENT	AREA	PERCENT	AREA	PERCENT	AREA	PERCENT
1	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
2	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
3	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
4	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
5	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
6	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
7	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
8	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
9	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
10	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
11	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
12	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
13	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
14	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
15	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
16	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
17	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
18	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
19	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
20	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
21	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
22	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
23	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
24	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
25	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
26	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
27	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
28	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
29	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
30	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
31	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
32	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
33	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
34	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
35	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
36	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
37	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
38	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
39	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00
40	11,191	1.00	11,191	1.00	11,191	1.00	11,191	1.00

ROSE LANE NO. 1  
97 - M - 71

MILESTONE  
CIRCLE

SCALE 1"=50'

#15549  
3-1-00

38-M-97

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-571**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND  
CONTRACT FOR THE FURNISHING OF ARMED/UNIFORMED SECURITY  
GUARD SERVICES TO NCLN20, INC., OAKLAND, CA, FOR A TWO (2) YEAR  
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN  
ESTIMATED ANNUAL COST OF \$344,558 AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the Parks, Recreation and Neighborhoods Department, Public Works Department, Modesto City/County Airport and Joint Powers Agency (JPA) have requested the furnishing of armed/uniformed security guard services for the following locations; American Legion Hall, Amtrak Station, Bus Maintenance Facility, Modesto City/County Airport, Transportation Center, Water Quality Control (WQC), 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Street Parking Garages, and the 1010 Tenth Street Place (TSP), and

WHEREAS, for the American Legion Hall this facility is rented to the public for special events held on the weekends, and

WHEREAS, uniformed security guard service is required for these events to help ensure public safety, and

WHEREAS, the Modesto Police Department (MPD) determines the number of security guards needed, depending on the type and size of the event, and

WHEREAS, this number can vary from two (2) to eight (8) security guards, and

WHEREAS, currently the Parks, Recreation and Neighborhoods Department requires the renters of the Hall to contract directly with the security guard company, so there are no expenditures or revenues to the Parks, Recreation and Neighborhoods Department, and

WHEREAS, problems arise when the renter provides proof of a security contract and subsequently cancels the contract, and

WHEREAS, there are currently no controls in place to prevent the renter from canceling the security contract, and

WHEREAS, staff proposes that the City contract the security services and charge the security services directly to the renter, and

WHEREAS, an hourly fee equivalent to the current cost of security services plus 1% for the administration of the services would be charged to the user at the time of the reservation, and

WHEREAS, the number of security guards needed for the event would be determined by the MPD, and

WHEREAS, by contracting the security services, the City hopes to eliminate current security concerns as a result of renter's canceling their security contracts after providing proof of contracted services to the City, and

WHEREAS, security staff hired through a contract with the City should provide the necessary means to alleviate potential liability issues, and

WHEREAS, for the Amtrak Station uniformed security guards provide enforcement of the no loitering laws and added security to the Amtrak Station, and

WHEREAS, during peak holiday travel periods (Christmas/New Years, Thanksgiving, Memorial Day, 4<sup>th</sup> of July, Labor Day, etc.), on-site guard service is provided from station closing to station opening, and

WHEREAS, for the other times of the year when the station is closed, a “pass-through” patrol makes four (4) to five (5) random unscheduled vehicle and walking passes through the station, and

WHEREAS, the Federal Transit Administration (FTA) requires transit agencies to spend a minimum of 1% of their annual FTA allocation on security projects, and

WHEREAS, if the City does not meet this requirement, it must formally certify that there is no need for transit security, and

WHEREAS, a portion of the rent paid by the County and the Greyhound Bus Co. for use of the Transportation Center is used to offset City-provided security guard service at the center, and

WHEREAS, for the Bus Maintenance Facility armed/uniformed security guards provide security to employees collecting the money received from bus fares, and

WHEREAS, when buses return to the yard in the evening, fare boxes are removed from the buses and the resulting tickets and cash receipts are consolidated with cash and coins, and then delivered to the bank for deposit, and

WHEREAS, having an on-site armed security guard during this transfer period is a positive and widely accepted business practice in the transit industry, and

WHEREAS, to date, there have been no security incidents with this critical operation, and

WHEREAS, during the late night period when the City and County Transit operations are closed, security guard service is shared with the 9<sup>th</sup> street parking garage, and

WHEREAS, this service also supports the Greyhound Bus Co. operation twenty-four (24) hours per day, seven (7) days per week, and

WHEREAS, for the Water Quality Control (WQC) Sutter Avenue Facility uniformed security guards ensure enforcement of the “no trespassing” and “authorized personnel only” policies, and

WHEREAS, the guards also provide additional safety and security for shift operators, as well as providing greater security for critical areas such as: the main building, which houses wastewater operations, including laboratory and industrial waste buildings, two (2) maintenance shops and the administration building, and

WHEREAS, several of these buildings store equipment that is critical to the successful operation of the wastewater facility, and

WHEREAS, for the 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Street Parking Garages a roving patrol officer, using a City owned vehicle, provides security guard service to the parking garages monitoring the activity of the garages, and

WHEREAS, the officer interacts with customers, parking garage attendants, other security and the MPD, as necessary, and

WHEREAS, additional responsibilities include conducting continuous rounds and inspections of the parking garages at prescribed intervals and escorting parking garage attendants at the end of their shift as they drop moneybags into the safe, and

WHEREAS, for the JPA – 1010 Tenth Street Place (TSP) uniformed security guards at TSP perform many functions, from escorting City employees to their cars after hours, to patrolling the plaza evenings and weekends, and

WHEREAS, TSP security guards monitor visitors in the lobby area, and monitor security cameras mounted inside and outside of the building and at the 9<sup>th</sup> street parking garage, and

WHEREAS, the security guards patrol the TSP building and plaza to help ensure employees and citizens are safe and protected, and

WHEREAS, the security guards also help with the removal of citizens who are panhandling or are a disrupting influence in the plaza, and

WHEREAS, the security guards carry police radios to contact MPD in order to expedite the response time to an emergency situation in the TSP building plaza, and

WHEREAS, another function is to serve the police and/or sheriff officer assigned to the TSP Chamber during City Council and County Board meetings, as backup to the officer on issues that may arise during these meetings, and

WHEREAS, on January 4, 2005, Council approved Resolution No. 2005-24, authorizing the Purchasing Supervisor to formally solicit Request for Proposals for the furnishing of armed/uniformed security guard services for a two (2) year agreement, with three (3) one-year extension options, and

WHEREAS, the Purchasing Division solicited Request for Proposal No. 0405-03, for the furnishing of armed/uniformed security guard services to thirty-five (35) companies, 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, five (5) companies chose to respond, and

WHEREAS, of those five (5) companies, four (4) companies provided responsive and responsible proposals, and

WHEREAS, on July 27, 2005, an evaluation committee was comprised of technical experts from the City and the JPA to evaluate the proposals. The Mayor attended the evaluation process as an observer, and the Purchasing Division facilitated the evaluation process taking no active role in the evaluation process, and

WHEREAS, the committee's individual scores were pre-tallied to identify and select the top three (3) proposers for proposer interviews, and

WHEREAS, on October 14, 2005, proposer interviews were held and all three (3) proposers attended, and

WHEREAS, based on being the lowest responsive and responsible proposal, City staff recommends the award of Proposal No. 0405-03 and contract for the furnishing of armed/uniformed security guard services to NCLN20, Inc., Oakland, CA, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of \$344,558.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Proposal No. 0405-03 and contract for the furnishing of armed/uniformed security guard services to NCLN20, Inc., Oakland, CA, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of \$344,558.

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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-572**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR TRAFFIC SIGNAL  
HARDWARE FOR AN INITIAL ONE (1) YEAR PERIOD, FOR A FIRST YEAR  
ESTIMATED ANNUAL COST OF \$75,041, WITH A ONE (1) YEAR CONTRACT  
EXTENSION PURCHASE OPTION**

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 term of any award/contract resulting from this Request for Bid (RFB) for traffic signal hardware shall be for a period of two (2) years from date of award, and

WHEREAS, pricing provided in this bid shall remain in effect for the duration of the contract period, 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, by soliciting competitive bids, the City will achieve the best value for traffic signal hardware and meet Modesto Municipal Code (MMC) requirements for formal bids, 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, 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 drafting of bid specifications 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 Purchasing Supervisor to solicit formal Request for Bids (RFB) for traffic signal hardware for an initial one (1) year period, with a one (1), one-year contract extension option, for a total estimated annual cost of \$75,041.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of traffic signal hardware for an initial one (1) year period, with a one (1),

one-year contract extension option, for a total estimated annual cost of \$75,041.00 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 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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-573**

**A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF  
MODESTO AND MOUNTAIN VALLEY EMERGENCY MEDICAL SERVICES  
AGENCY (MVEMS), TO PERMIT THE MODESTO FIRE DEPARTMENT TO  
PROVIDE ADVANCED LIFE SUPPORT (ALS) SERVICES AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, in July 2003, the City of Modesto and American Medical Response (AMR) entered into a "Pilot" ALS Program, and

WHEREAS, for over two years, the Modesto Fire Department has been delivering ALS services from one engine company at an annual cost of approximately \$54,000, and

WHEREAS, it has been the goal of the City to operate the ALS program on a cost neutral basis, and

WHEREAS, AMR and the City of Modesto wish to execute a contract where AMR will reimburse the City in the amount of \$72,000 for ALS services, which will enable the City to add a second ALS engine, and

WHEREAS, the MVEMSA must approve all EMS providers within Stanislaus County, and

WHEREAS, in order for the Modesto Fire Department to provide ALS services, a contract between the MVEMSA and City of Modesto is necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract between the MVEMSA and the City of Modesto to permit the Modesto Fire Department to provide ALS services.

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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-574**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR THE PURCHASE AND INSTALLATION OF A LIEBERT 65KVA  
UNINTERRUPTIBLE POWER SUPPLY (UPS) SYSTEM FOR THE  
INFORMATION TECHNOLOGY DEPARTMENT TO ELITE POWER, INC.,  
SACRAMENTO, CA, FOR AN ESTIMATED PURCHASE PRICE OF \$124,650**

WHEREAS, the 5<sup>th</sup> floor data center is provided with “clean” power and outage protection through an IPM/Powerware BPII Uninterruptible Power Supply (UPS) unit located on the 5<sup>th</sup> floor, and

WHEREAS, this UPS supports Citywide financial systems such as budget, accounting and payroll, and

WHEREAS, the UPS has experienced several failures over the last several months to its charging system and is currently experiencing total system failure, and

WHEREAS, the existing Powerware BPII is a discontinued model, and

WHEREAS, parts have a limited availability and this has resulted in long delays in service and repair, and

WHEREAS, in the past three (3) months the Information Technology Department has experienced three (3) system failures resulting in total data center blackouts, as well as loss/damage to the data equipment, and

WHEREAS, the system experienced total system failure on August 29, 2005, resulting in numerous service calls, and

WHEREAS, parts replacement has been unsuccessful in repairing the system, and

WHEREAS, the current UPS is located in a non-environmentally controlled location, and

WHEREAS, this may have been a partial cause of the system’s failure, and

WHEREAS, the 5<sup>th</sup> floor data center UPS provides continuous power to all computer equipment in the event utility provided power fails, and

WHEREAS, the UPS is a “failsafe” that protects the City’s data center, including all mission critical servers and data systems, and

WHEREAS, the UPS provides critical temporary power in the event of loss of utility power to allow servers and data systems to shut down in a normal fashion, and

WHEREAS, failure of the utility provided power source, without UPS protection, would result in immediate failure and shutdown of all data center systems, and

WHEREAS, additionally, this immediate mode of shutdown often results in severe damage to the servers and/or data systems, and

WHEREAS, shutdown of data center and web-based applications will negatively impact City staff and citizens of Modesto, and

WHEREAS, due to the critical nature of having a dependable UPS system in place that protects several operating systems Citywide, such as the financial systems budget, accounting and payroll systems, and based on the fact of the recent power losses experienced by the Information Technology Department, the City Manager’s Office determined this to be a critical situation, demanding a (critical need) circumstance, and

WHEREAS, due to the critical need situation the Information Technology Department obtained a rough cost estimate from an electrical contractor experienced in UPS systems, and

WHEREAS, the rough cost estimate of approximately \$90,000 was for the purchase of a new UPS system including installation and construction material, for a location in close proximity to the critical load or the 5<sup>th</sup> floor data center, and

WHEREAS, the estimate provided by the electrical contractor was without the benefit of an onsite survey and knowledge of the circumstances surrounding the failure of the old UPS system, and

WHEREAS, the Information Technology Department decided to provide City Council with an estimated cost of \$100,000 for the project. This figure was determined to be a reasonably safe number above the contractor's estimate to cover unexpected cost overruns, and

WHEREAS, on September 13, 2005, Council approved Resolution No. 2005-464, authorizing the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System for the Information Technology Department, for a total estimated price of \$100,000, and

WHEREAS, additionally, Council authorized the Purchasing Supervisor to solicit competitive quotes for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System, evaluate bid responses for the best overall value to the City and issue a purchase order to the selected vendor, based on the critical nature of this project, and

WHEREAS, On October 4, 2005, the Purchasing Division solicited Request for Bid (RFB) No. 0506-14 for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System to five (5) companies and posted the bid on the City's web site, and

WHEREAS, at the time of the RFB submittal two (2) sites were being considered for the location of the new UPS system:



- Fifth floor telecommunications closet located at 1010 Tenth Street, 5<sup>th</sup> Floor, Modesto, CA
- Basement telecommunications room located at 1010 Tenth Street, Basement, Modesto, CA, and

WHEREAS, bidders were to furnish bid pricing for both locations, and based on the bids received, the City would choose the site location that best suited its needs, and

WHEREAS, on October 10, 2005, a site walk-through and bidders conference was held to allow bidders the opportunity to inspect the two (2) site locations and address bidder inquires, and

WHEREAS, during the bid walk-through it was determined that the 5<sup>th</sup> floor telecommunications closet was not a viable location to install the new UPS system due to environmental control issues (heat) in the room, and

WHEREAS, on October 28, 2005, bids were opened in the Purchasing Division, and

WHEREAS, of the five (5) companies solicited, two (2) companies chose to respond, and

WHEREAS, the low bid came in approximately 25% higher than the \$100,000 cost estimate submitted to Council, and

WHEREAS, the Information Technology Department believes the higher cost is attributed to the fact of relocating the new UPS system to the basement telecommunications room, and

WHEREAS, the relocation of the UPS system to the basement requires additional materials and labor over installing the system in the 5<sup>th</sup> floor telecommunication room, and

WHEREAS, additional electrical conduit and wiring is needed as well as additional labor to core bore each floor to provide the pathway, and

WHEREAS, each core bore is very labor intensive and costly, due to the amount of concrete that will need to be bored, and

WHEREAS, additionally, the recent hurricane disasters have affected the construction market on material prices, and

WHEREAS, this was mentioned by two (2) of the contractors that attended the site walk-through, and

WHEREAS, the contractors mentioned that the hurricanes in the Louisiana and Texas regions have put a market strain on the cost and availability of materials required to rebuild the devastated infrastructure in those areas, and

WHEREAS, this includes copper and electrical conduit that would be used in the construction of the new UPS system, and

WHEREAS, based on being the lowest responsive and responsible bid, City staff recommends the award of Bid No. 0405-14 and contract for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply (UPS) System for the Information Technology Department to Elite Power, Inc., Sacramento, CA, for an estimated purchase price of \$124,650,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0405-14 and contract for the purchase and installation of a

Liebert 65KVA Uninterruptible Power Supply (UPS) System for the Information Technology Department to Elite Power, Inc., Sacramento, CA, for an estimated purchase price of \$124,650.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply (UPS) System for the Information Technology Department to Elite Power, Inc., Sacramento, CA, for an estimated purchase price of \$124,650.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-575**

**A RESOLUTION AMENDING THE 2005/2006 BUDGET TO APPROPRIATE  
\$24,650 FROM THE GENERAL FUND RESERVES 0100-800-8000-8003 TO THE  
INFORMATION TECHNOLOGY OPERATING BUDGET 7130-070-0744-5400  
TO FULLY FUND THE PURCHASE OF A LIEBERT 65KVA  
UNINTERRUPTIBLE POWER SUPPLY (UPS) SYSTEM**

WHEREAS, the Information and Technology (IT) Department obtained a rough cost estimate of approximately \$90,000 for the purchase of a new Uninterruptible Power Supply (UPS) system including installation and construction material, for a location in close proximity to the critical load or the 5<sup>th</sup> floor data center, and

WHEREAS, the estimate provided by an electrical contractor experienced in UPS systems was without the benefit of an onsite survey and knowledge of the circumstances surrounding the failure of the old UPS system, and

WHEREAS, the IT Department decided to provide City Council with an estimated cost of \$100,000 for the project. This figure was determined to be a reasonably safe number above the contractor's estimate to cover unexpected cost overruns, and

WHEREAS, on September 13, 2005, Council approved Resolution No. 2005-464, authorizing the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System for the IT Department, for a total estimated price of \$100,000, and

WHEREAS, additionally, Council authorized the Purchasing Supervisor to solicit competitive quotes for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System, evaluate bid responses for the best overall value to the City and issue a purchase order to the selected vendor, based on the critical nature of this project, and

WHEREAS, On October 4, 2005, the Purchasing Division solicited Request for Bid (RFB) No. 0506-14 for the purchase and installation of a Liebert 65KVA Uninterruptible Power Supply System to five (5) companies and posted the bid on the City's web site, and

WHEREAS, at the time of the RFB submittal two (2) sites were being considered for the location of the new UPS system:

- Fifth floor telecommunications closet located at 1010 Tenth Street, 5<sup>th</sup> Floor, Modesto, CA
- Basement telecommunications room located at 1010 Tenth Street, Basement, Modesto, CA, and

WHEREAS, bidders were to furnish bid pricing for both locations, and based on the bids received, the City would choose the site location that best suited its needs, and

WHEREAS, on October 10, 2005, a site walk-through and bidders conference was held to allow bidders the opportunity to inspect the two (2) site locations and address bidder inquires, and

WHEREAS, during the bid walk-through it was determined that the 5<sup>th</sup> floor telecommunications closet was not a viable location to install the new UPS system due to environmental control issues (heat) in the room, and

WHEREAS, on October 28, 2005, bids were opened in the Purchasing Division, and

WHEREAS, of the five (5) companies solicited, two (2) companies chose to respond, and

WHEREAS, the low bid came in approximately 25% higher than the \$100,000 cost estimate submitted to Council, and

WHEREAS, the IT Department believes the higher cost is attributed to the fact of relocating the new UPS system to the basement telecommunications room, and

WHEREAS, the relocation of the UPS system to the basement requires additional materials and labor over installing the system in the 5<sup>th</sup> floor telecommunication room, and

WHEREAS, additional electrical conduit and wiring is needed as well as additional labor to core bore each floor to provide the pathway, and

WHEREAS, each core bore is very labor intensive and costly, due to the amount of concrete that will need to be bored, and

WHEREAS, additionally, the recent hurricane disasters have affected the construction market on material prices, and

WHEREAS, this was mentioned by two (2) of the contractors that attended the site walk-through, and

WHEREAS, the contractors mentioned that the hurricanes in the Louisiana and Texas regions have put a market strain on the cost and availability of materials required to rebuild the devastated infrastructure in those areas, and

WHEREAS, this includes copper and electrical conduit that would be used in the construction of the new UPS system, and

WHEREAS, based on being the lowest responsive and responsible bid, City staff recommends the award of Bid No. 0405-14 and contract for the purchase and installation

of a Liebert 65KVA Uninterruptible Power Supply (UPS) System for the IT Department to Elite Power, Inc., Sacramento, CA, for an estimated purchase price of \$124,650,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a resolution amending the 2005/2006 budget to appropriate \$24,650 from the general fund reserves 0100-800-8000-8003 to the IT operating budget 7130-070-0744-5400 to fully fund the purchase of a Liebert 65KVA Uninterruptible Power Supply (UPS) System.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-576**

**A RESOLUTION APPROVING AN APPLICATION FOR \$1,500,000 FOR  
BICYCLE TRANSPORTATION ACCOUNT PROGRAM FUNDING THROUGH  
THE STANISLAUS COUNTY COUNCIL OF GOVERNMENTS TO THE STATE  
OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR  
CONSTRUCTION OF THE BRIGGSMORE BRIDGE AS PART OF PHASE V OF  
THE VIRGINIA CORRIDOR AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE GRANT APPLICATION**

WHEREAS, the City of Modesto has completed the Specific Plan for the Virginia Corridor Rails-to-Trails Project, and

WHEREAS, staff has been informed of the opportunity to apply for Bicycle Transportation Account (BTA) funding through the Stanislaus County Council of Governments to State of California Department of Transportation, and

WHEREAS, the BTA is intended to provide State funds for city and county projects that improve safety and convenience for bicycle commuters,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby supports an application by the Stanislaus Council of Governments for \$1,500,000 for Bicycle Transportation Account program funding through the State of California Department of Transportation for construction of the Briggsmore Bridge as part of Phase V of the Virginia Corridor.

BE IT FURTHER RESOLVED that the Council hereby certifies that the required ten percent (10%) local share of the total project cost is available from Federal Highway Transportation Fund grant funding.

BE IT FURTHER RESOLVED that the City Manager or his authorized 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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MELICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-577**

**A RESOLUTION AUTHORIZING EXPENDITURE OF THE CURRENTLY  
BUDGETED STANISLAUS & TUOLUMNE RIVERS' GROUNDWATER BASIN  
ASSOCIATION (STRGBA) -GROUNDWATER MANAGEMENT PLAN (GWMP)  
-SECONDARY FUNDS (APPROXIMATELY \$49,950) TO CONTINUE  
PARTICIPATION IN ONGOING GROUNDWATER MANAGEMENT  
RELATED ACTIVITIES**

WHEREAS, the City of Modesto authorized staff to participate in the development of Groundwater Management Plans and authorized the initial expenditure of budgeted funds for the development of Groundwater Management Plans for both of the two groundwater sub-basins underlying the City of Modesto on January 27, 2004, and

WHEREAS, the City of Modesto is currently participating in two groundwater associations, the Stanislaus and Tuolumne Rivers' Groundwater Basin Association (STRGBA) and the Turlock Groundwater Basin Association (TGBA), to discuss groundwater issues within these respective basins, and

WHEREAS, the City has experienced a decline in groundwater quality at a number of well sites, which has resulted in those wells being taken out of service, and

WHEREAS, in June 2005, the City adopted an Integrated Regional Groundwater Management Plan (IRGMP) with the STRGBA that provides a framework for overseeing and coordinating both groundwater and surface water management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, additional expenditures by the City are required to continue participating in on-going groundwater management related activities in order to: 1) make payment to the Modesto Irrigation District (MID) for the City's fair share (\$21,000) of the \$195,000 ongoing United States Geological Survey (USGS) – Phase IV, Groundwater

Flow Modeling project (“Modeling project”); 2) make payment to MID for the City’s fair share (\$2,000 remaining balance of the \$21,000 total) of the \$195,000 USGS – Phase III, Modeling project; and 3) expend the balance of the budgeted funds (approximately \$26,950) for other groundwater management related work in both the Modesto Groundwater Sub-basin and the Turlock Groundwater Sub-basin, including City staff charges, and

WHEREAS, City desires to pay the amounts for the total additional expenditures, which is approximately \$49,950, and

WHEREAS, sufficient funds have been budgeted in CIP account – 6180-430-W620-6010, STRGBA-GWMP-Secondary to support said ongoing activities, and

WHEREAS, the Acting Public Works Director recommends approving the expenditures to continue participation in ongoing groundwater management related activities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes expenditures of currently budgeted funds, in the estimated amount of \$49,950, as requested above to continue participating in ongoing groundwater management related activities.

BE IT FURTHER RESOLVED that the Council hereby authorizes the expenditure of said currently budgeted funds for ongoing groundwater management related activities for both the Modesto and Turlock Groundwater Sub-basins underlying the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-578**

**A RESOLUTION APPROVING A SUPPLEMENTAL LEASE AGREEMENT  
WITH THE GENERAL SERVICES ADMINISTRATION FOR OFFICE SPACE  
AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON  
BEHALF OF THE CITY**

WHEREAS, the City of Modesto and the General Services Administration (GSA) entered into a Lease Agreement on November 20, 2002 for office space at the Modesto City-County Airport, and

WHEREAS, said office space is being used by the Transportation Safety Administration (TSA) to house its security staff serving the Modesto City-County Airport, and

WHEREAS, GSA foresees the need to extend its lease with the City of Modesto through February 2007 for office space used by TSA, and

WHEREAS, the current lease and subsequent amendments provided for a lease period that expired February 28, 2005, and

WHEREAS, the General Services Administration has requested that the City extend the lease to March 1, 2007, and

WHEREAS, based on the Consumer Price Index (CPI), rates for airport rental leases have increased 4.7% since 2002, and

WHEREAS, if the leased space should be needed for other airport uses during the extension period, Airport staff may relocate GSA within the terminal or near the terminal with 30 days notice,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Supplemental Lease Agreement 6A to the General Services Administration Lease No. GS-09B-01257.

BE IT FURTHER RESOLVED that the City Manager or his authorized designee is hereby authorized to execute the Supplemental 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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-579**

**A RESOLUTION APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO WEST YOST AND ASSOCIATES FOR \$1,262,000 TO COMPLETE THE FINAL DESIGN FOR THE CITY WATER SYSTEM TIER 1 DOWNSTREAM IMPROVEMENTS TO ACCOMMODATE THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto and the Modesto Irrigation District (MID) have begun work planning to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, downstream improvements consisting of water storage tanks, booster pumping stations, pressure and/or flow control valves, and pipelines are needed to fully integrate the Phase Two Expansion of the MRWTP with the City's water system, and

WHEREAS, an initial evaluation of the water distribution system, using the City's recently developed computer model, has confirmed the need for these improvements and has provided a general project description of the improvements, and

WHEREAS, the design for the Critical Downstream Improvements needs to be completed by the winter of 2006 to remain on schedule with the Phase Two project's scheduled operation in the year 2007, and

WHEREAS, the Economic Development Committee at its meeting on March 8, 2004, concurred with staff's recommendation of requiring critical facilities consisting of the pressure and/or flow regulating valves, the north tank and pump station, and water transmission pipelines to be moved into design, and

WHEREAS, on March 8, 2004, the Economic Development Committee directed staff to proceed with the negotiations with West Yost and Associates for the preparation of the design of the Critical Downstream Facilities, and

WHEREAS, on April 6, 2004, the Council of the City of Modesto adopted Resolution 2004-176 approving the Agreement with West Yost and Associates, for preparation of the Preliminary Design Report of the Downstream Improvements for the City of Modesto's water system in an amount not to exceed \$449,000, and

WHEREAS, City staff determined that Design Services for the City Water System Tier 1 Downstream Improvements to accommodate the MRWTP Phase Two Expansion would be prepared in two stages, namely Preliminary Engineering and Final Design, and

WHEREAS, on December 14, 2004, the Council of the City of Modesto adopted Resolution 2004-671 approving the Agreement with West Yost and Associates to complete Preliminary Engineering Services for the City Water System Tier 1 Downstream Improvements to accommodate the Modesto Regional Water Treatment Plant Phase Two Expansion in an amount not to exceed \$710,200, and

WHEREAS, the Public Works Director has recommended accepting the proposed contract with West Yost and Associates to complete the Final Design for the City Water System Tier 1 Downstream Improvements to accommodate the MRWTP Phase Two Expansion in an amount not to exceed \$1,262,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with West Yost and Associates to complete the Final Design for the City Water System Tier 1 Downstream Improvements to



accommodate the MRWTP Phase Two Expansion in an amount not to exceed \$1,262,000.

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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-580**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN PAPILLON PARK  
SUBDIVISION, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF  
COMPLETION AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, Marilyn Shroyer, Trustee Of The Marilyn Shroyer Trust, is the subdivider of the Papillon Park Subdivision, and

WHEREAS, Marilyn Shroyer, Trustee Of The Marilyn Shroyer Trust, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$22,199.10 and \$11,099.55, respectively, and

WHEREAS, Marilyn Shroyer, Trustee Of The Marilyn Shroyer Trust, has filed a warranty bond in the amount of \$2,219.91 to guarantee improvements in the Papillon Park Subdivision, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the 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 Papillon Park 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 \$22,199.10.00 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 \$11,099.55 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 \$2,219.91 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 22<sup>nd</sup> day of November 2005, by Councilmember Jackman, who moved its 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, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-581**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL FOR THE  
FURNISHING OF LANDSCAPE MAINTENANCE SERVICES TO GROVER  
LANDSCAPE SERVICES, INC. AND DIRECTING STAFF TO NEGOTIATE A  
LANDSCAPE MAINTENANCE SERVICE AGREEMENT WITH GROVER  
LANDSCAPE SERVICES, INC. FOR PARKS, RIGHT-OF-WAYS AND PUBLIC  
LANDSCAPING OWNED AND/OR MAINTAINED BY THE CITY OF  
MODESTO WITH GROVER LANDSCAPE SERVICES, INC.**

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, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Proposal (RFP) for the furnishing of landscape maintenance services conforms to MMC Section 8-3.203, and

WHEREAS, Modesto City Council Resolution No. 96-676 set forth the policy for competitive delivery of City services and Resolution No. 2004-691 authorized staff to solicit RFP's for landscape maintenance services, 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 park, right-of-way 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, on May 3, 2005, RFP's were formally opened in the City Clerk's office, and

WHEREAS, of the twenty-nine (29) prospective proposers solicited, sixteen of which were local companies, two (2) proposers chose to respond, MCEA and Grover Landscape Services, Inc., and

WHEREAS, on June 2, 2005, an evaluation committee was formed, comprised of three (3) City staff personnel and two (2) outside technical experts to evaluate the two (2) proposals; in addition, the Mayor appointed Councilmember Dunbar as an observer of the evaluation process, and

WHEREAS, the proposals were evaluated by the Committee based on the criteria of: Completeness of Response (5 points); Understanding of the Project (10 points); Relevant Experience (10 points); Management and Technical Summaries (30 points); Quality Assurance Program (5 points); and, Qualification Summary (10 points), and

WHEREAS, the committee gave an overall score, including costs, of 79.5 to MCEA and 91.6 to Grover Landscaping, and

WHEREAS, because of MCEA's steadfast position regarding the use of Honor Farm labor at "B" sites, despite several opportunities to amend their proposal, the committee could not truly evaluate their proposal for "B" Site locations and had no choice but to reject that portion of their proposal for being non-responsive, and

WHEREAS, based on the evaluation criteria, the determination that MCEA was unresponsive regarding "B" sites and the proposed costs, the evaluation committee is recommending that staff be authorized to negotiate a landscape maintenance service agreement with Grover Landscape Services, Inc. (Grover) for all parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, staff has evaluated Grover's proposal, and compared the City's actual costs, and found that after the cost of sprinkler replacement and turf vandalism repair is added into the contract and the savings from fleet rental rates are deducted from the City's current costs, the estimated annual savings is \$377,242 in the first year, increasing to \$519,834 in year five, with a total estimated savings over the five-year contract of \$2,309,968, and

WHEREAS, the Finance Committee met on October 24, 2005, and supported the recommendation to accept the recommendation of the RFP Review Committee and staff

for the City Council to award the proposal for landscape maintenance services to Grover Landscape Services, Inc. and to authorize staff to negotiate an agreement with Grover,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc.

BE IT FURTHER RESOLVED that the Council hereby directs 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 with Grover Landscape Services, Inc., and to return to Council for approval of said agreement and related budget amendments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, 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, Mayor Ridenour
NOES:	Councilmembers:	Jackman, Marsh
ABSENT:	Councilmembers:	None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-582**

**A RESOLUTION APPROVING THE FUNDING OF SUPPLEMENTAL BUDGET  
REQUESTS FOR FISCAL YEAR 2005-06**

WHEREAS, during the FY2005-06 budget process, the City Council decided to defer the consideration of supplemental budget requests until the year-end information was finalized and the General Fund status was more certain, and

WHEREAS, on October 21, 2005, the City Council received a General Fund status report showing year-end revenues coming in about \$3 million more than projected, and

WHEREAS, on October 21, 2005, the Finance Committee reviewed the City Manager's recommendations for supplemental funding for ongoing and one-time requests, as well as requests that were not recommended to move forward, and

WHEREAS, the Finance Committee recommended, with suggested revisions as shown in Attachment A, that the supplemental funding requests be referred to the City Council for approval, and

WHEREAS, on November 22, 2005, the City Council reviewed the requests for supplemental funding as set forth in Attachment A,

WHEREAS, all 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

WHEREAS, if fiscal year savings is realized above three percent (3%), these savings will be directed towards the Technology Reserve Fund,

WHEREAS, the Council directed staff to return to a future Council meeting with options



to restore the \$38,000 in the golf capital improvement fund,

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

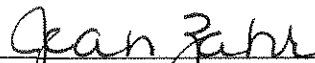
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:



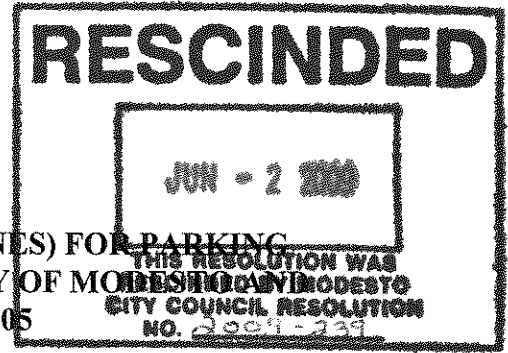
MICHAEL D. MILICH, City Attorney

**COUNCIL APPROVED SUPPLEMENTAL BUDGET  
FISCAL YEAR 2005-06 (JANUARY 06 FUNDING)**

	DEPT	BUDGET REQUEST	CHG IN FTE	FY 05-06		
				General Fund	Other Fund Support	Total Request
1	ATTY	Paralegal (Implement Audit Recommendation)	-	5,700		5,700
2	CEDD	Admin Analyst I/II (Planning/Dev. Serv)	1.00	7,950	23,850	31,800
3	FIN	AOA II Restore	0.25	5,156		5,156
4	FIN	Buyer (Utility Emphasis)	1.00	7,820	23,460	31,280
5	FIN	AOA II (Insurance Certs/Accounting)	1.00	14,061	14,062	28,123
6	FIN	Budget Analyst (CIP Emphasis)	1.00		12,000	12,000
7	FIN	Meter Relocation to Finance	-		0	0
8	FIRE	Fire Marshall/DC	-	8,049		8,049
9	FIRE	Medical Coordinator	1.00	20,500		20,500
10	FIRE	Storekeeper	1.00	27,266		27,266
11	FIRE	Firefighters Restore (Apr-June 06)	12.00	312,811		312,811
12	PD	Police Clerk (Payroll)	0.75	18,015		18,015
13	PD	CSO Restore	1.00	25,255		25,255
14	PD	Crime Analyst (Gang Taskforce)	1.00	30,310		30,310
15	PD	Animal Control Civilian Supervisor	1.00	32,218		32,218
16	PD	Weed & Seed Coordinator	1.00	40,233		40,233
17	PD	Police Clerk Restore (Records)	2.00	42,900		42,900
18	PD	Police Officers Restore	11.00	233,518		233,518
19	PER	Personnel Analyst Restore	0.25	11,000		11,000
20	PRN	Code Enforcement Officer (NPU)	1.00	26,535	24,000	50,535
21	PRN	Parks Supervisor Restore	1.00	43,420		43,420
22	PW	Public Information Technician	1.00	2,500	28,470	30,970
23	PW	Admin Analyst II (Capital Impr Services)	1.00	8,400	33,599	41,999
24	PW	Maint Worker I/II (Root Cutting/Barrier Install)	1.00	58,000		58,000
25	PW	Tree Trimmers Limited Term	2.00	59,000		59,000
26	PW	AOA III (Transit)	1.00		25,652	25,652
27	PW	AOA II (Capital Impr Services)	1.00		26,205	26,205
28	PW	O&M Supervisor (Water)	1.00		85,148	85,148
29	PW	Water Pump Crew	3.00		239,089	239,089
30	PW	AOA II (Wastewater Collections)	1.00		23,705	23,705
31	PW	Associate Civil Engineer (Capital Png)	1.00		53,626	53,626
32	CLERK	Audit Contract Services	-	25,000		25,000
33	FIRE	Fire Station #1 Planning	-	700,000		700,000
34	IT	Data Storage Upgrade	-	25,000	25,000	50,000
35	IT	Novell License Agreement	-	32,160	15,840	48,000
36	IT	Technology Fund Reserve	-	1,000,000	1,000,000	2,000,000
37	PD/CEDD	Building Inspection/Related Costs (Beat Health)	1.00	100,000		100,000
38	PD/FIRE	911 Command Center	-	68,000		68,000
39	PER	Job Audit Consultant	-	5,000	15,000	20,000
40	PRN	Golf Capital Improvements	-	50,000		50,000
41	PRN	John Thurman Field Capital Projects	-	50,000		50,000
42	PRN	Park Spray Ground @ Sylvan Park	-	59,000		59,000
43	PW	Curb, Gutter, Sidewalk Repair	-	50,000		50,000
44	PW	Merit Spraying	-	79,244		79,244
45	PW	Rockwell Maintenance Contract	-	115,000		115,000
46	PW	Street Sweeper	-	175,000	25,000	200,000
47	PW	Fleet Fund Repayment (10 yrs w/interest)	-	212,000		212,000
48	PW	Pruned Refuse Program	-	600,000		600,000
49	PW	Service Truck Enhancements (Water Ops)	-		38,500	38,500

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2005-583**

**A RESOLUTION INCREASING BAIL SCHEDULES (FINES) FOR PARKING VIOLATIONS WITHIN THE CITY LIMITS OF THE CITY OF MODESTO, CALIFORNIA, RESCINDING RESOLUTION NO. 91-705**



WHEREAS, the Municipal Court of Stanislaus County has delegated to local jurisdictions within the County of Stanislaus the power to establish bail schedules for parking violations within said jurisdictions subject to Court approval, and

WHEREAS, the Council of the City of Modesto now desires to increase certain parking violation bails (commonly called fines) and to establish bails for these Municipal Code parking ordinances for which bails have not previously been established, and

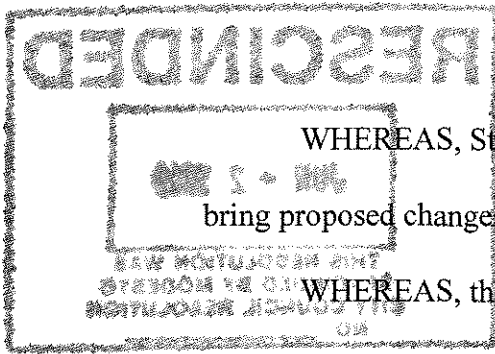
WHEREAS, a study of parking violation bails has been conducted by the Modesto Finance Department, which study reveals that fines currently imposed within the City of Modesto for numerous parking violations are significantly lower than those of other area cities, and

WHEREAS, the City of Modesto has not increased the penalty for parking violations since November of 1991, and

WHEREAS, it appears that penalties are insufficient to motivate many drivers to obey the parking laws, and

WHEREAS, the Downtown Improvement District has reviewed and does not oppose the bail changes, and

WHEREAS, the increased fees for Parking Citations, projected to generate \$150,000 in revenue, will capture City costs in enforcing and performing citation processing, and



WHEREAS, Staff will review the schedule every 3 years and, if warranted, will bring proposed changes to Council, and

WHEREAS, the Finance Committee unanimously supported this action at its meeting of October 24, 2005.

NOW, THEREFORE, BE IT RESOLVED by the Council, of the City of Modesto, that it hereby adopts the Bail Schedule for Parking Violations within the City of Modesto, which schedule is attached hereto as Exhibit "A" and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Council hereby adopts said Bail Schedule with the knowledge of and intent that a surcharge upon each bail of Five Dollars (\$5.00) shall be collected by the County of Stanislaus for distribution in accordance with current state and county law pertaining to a jail construction fund, a courthouse construction fund, and a trial courts fund, and that said surcharge shall be in addition to the sums set forth at Exhibit "A" as bails.

BE IT FURTHER RESOLVED that Resolution No. 91-705 adopted by the Council on November 19, 1991, is hereby rescinded effective upon the date of the adoption of this resolution.

BE IT FURTHER RESOLVED that this resolution is effective upon its adoption.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, 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, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**City of Modesto  
Proposed Parking Violation Bail Schedule**

**PARKING VIOLATIONS****MMC**

3-2.810 Removal of Chalk Marks	\$50.00
3-2.812 Parked in Crosswalk	\$30.00
3-2.814 Leaving Unattended Vehicle	\$25.00
3-2.1011 Parked On Private Property without Consent Prohibited	\$35.00
3-2.1002 Vehicle Storage 72 Hour Parking	\$100.00
3-2.1004 Parking In Alley	\$30.00
3-2.1005 Parallel and Angle Parking 18"	\$25.00
3-2.1005A Parked Wrong Way	\$35.00
3-2.1006 Parking of Commercial Vehicles	\$50.00
3-2.1007 Stopping or Parking Prohibited (signs required)	\$30.00
3-2.1008 Emergency Signs - No Parking	\$30.00
3-2.1010A Driving or Parking on Parks, Playgrounds and City Property	\$25.00
3-2.1010C Parked on Sidewalk	\$25.00
3-2.1011 Parked on Private Property	\$50.00
3-2.1017 Parked in Fire Lane	\$35.00
3-2.106 Freight Loading Zone	\$30.00
3-2.1101 (1), (2), (3),(4) Curb Markings - Zone Parking Red, Yellow, Etc	\$30.00
3-2.1101.5 No Stopping/Parking Blue Zone	\$300.00
3-2.1102 Unauthorized Painting of Curb	\$50.00
3-2.1104 Stopping, Standing for Loading or Unloading Only	\$25.00
3-2.1105 Stopping, Standing or Parking of Vehicles in Roadway	\$50.00
3-2.1202 Overtime Parking in Time Zone	\$25.00
3-2.1203 Parking Prohibited at Certain Times - Night Parking A,B,C	\$25.00
3-2.1608 Parking Out of Space (off street)	\$30.00
3-2.1204 Parking Out of Space (on street)	\$30.00
3-2.1205 Vision Obstruction - Parking Prohibited	\$50.00
3-2.1301B Towing Off Truck Route	\$50.00
3-2.1503 Method of Parkig - Parked Backed into Stall	\$25.00
3-2.1504 Overtime Parking in Meter Zone	\$25.00
3-2.1504 Expired Meter Parking	\$25.00
3-2.1511 Parking Commercial Veh In Meter Zone	\$50.00
3-2.1607 City Reserved Parking - Off Street Parking Lots	\$25.00
3-2.1909 No Residential Parking Permit	\$30.00
3-2.2006 Oversized Vehicles	\$75.00
3-2.2007 Oversized Trailers	\$75.00
3-2.2008 Oversized Vehicles w/o Permit	\$75.00

**CVC CODES**

4462 .5 False Tabs	\$150.00
5200 No Front License Plate	\$99.00
5201 Covering License Plate	\$99.00
5204 License Tabs	\$99.00
4000a Expired Registration (Non Sworn Can Enf Off Street only)	\$175.00

\*Codes and fines in red are fixed by the California Vehicle Code. These increases have already taken place. Provided for information only.

22500 (h) (e) Double Parking/ Parked Blocking Driveway	\$25.00
21461 A Police Vehicles Only	\$35.00
22507.8 Disabled Parking	\$300.00
22514 Fire Hydrant	\$35.00
40226 Failure to Display Disabled Pacard	\$25.00

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-584**

**A RESOLUTION DENYING THE APPEAL OF CINGULAR WIRELESS TO A  
BOARD OF ZONING ADJUSTMENT DECISION DENYING AN EXPANSION  
TO AN EXISTING CELL TOWER LOCATED SOUTH OF MERLE AVENUE  
AND EAST OF WISDOM WAY, AND UPHOLDING THE DECISION OF THE  
BOARD OF ZONING ADJUSTMENT**

WHEREAS, on August 23, 2001, the Board of Zoning Adjustment approved an application for a conditional use permit to allow a 75-foot-high cellular communications antenna monopole and related equipment on City-owned property located south of Merle Avenue and east of Wisdom Way, and

WHEREAS, Cingular Wireless applied for a Conditional Use Permit to raise the existing monopole to 84-feet-3-inches-high, and to add six new antennas above the existing antennas, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on September 22, 2005, 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. 2005-07, the Board of Zoning denied the expansion to the existing cell tower for the following reason:

1. The proposed expansion is higher than 75 feet, which is the height of other similar cell tower facilities previously approved by the City of Modesto in the surrounding area, and

WHEREAS, on October 5, 2005, an appeal to the decision of the Board of Zoning Adjustment was filed with the office of the City Clerk by Soluri & Emrick, LLP on behalf of Cingular Wireless, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council on Tuesday, November 1, 2005, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and was thereafter continued for hearing to November 22, 2005, at 5:30 p.m., in the Tenth Street Place Chambers, located 1010 Tenth Street, Modesto, California, and

WHEREAS, after said public hearing, at which evidence both oral and documentary was heard, the Council found and determined that the appeal to the decision of the Board of Zoning Adjustment should be denied and the decision of the Board of Zoning Adjustment should be confirmed for the reasons set forth below, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. That the proposed height of the tower expansion is not compatible with the height restrictions in the R-1, Single-Family Residential Zone. The current cellular communications monopole is the highest freestanding structure in the surrounding area, and is already visually obtrusive. Increasing the height of the existing monopole to an overall height of eighty-four-feet-three-inches (84'-3") will only make it more obtrusive and incompatible with the surrounding residential area.
2. That the Council has considered the fact that a water tank is also in the R-1, Single-Family Residential Zone and that the water tank is not a residential use. The Council finds that the presence of a water tank in the R-1 zone is irrelevant to the visual impact that an extension of an existing pole would have on the surrounding residential area.
3. That there are alternative commercial locations in the vicinity that the cellular service provider could use, locate at, or collocate on and that would allow the cellular service provider to both satisfy its coverage objectives and create fewer impacts.
4. That the conditional use permit for an extension to the existing cellular telecommunications tower is not consistent with previous approvals in R-1 Zones or in the surrounding area.



5. That granting the conditional use permit would not be in the best interest of the public's welfare.
6. That the cellular service provider has not demonstrated a significant gap in coverage that would constitute an "effective prohibition" under the Federal Telecommunications Act. Nor has the cellular service provider demonstrated that it has considered alternative locations or alternative heights that would create fewer visual impacts.
7. That these findings are based on and supported by the evidence in the staff report submitted to the city council and the oral and documentary evidence received and considered at the public hearing together with the rules and regulations of the City, including the City's Zoning Code.

NOW, THEREFORE, BE IT FURTHER RESOLVED that based on the substantial evidence presented at the public hearing, both verbal and documentary, and the above findings, the Council further determines that the appeal of Soluri & Emrick, LLP on behalf of Cingular Wireless to the decision of the Board of Zoning Adjustment denying the expansion to the existing cell tower is denied, and the decision of the Board of Zoning Adjustment is hereby upheld.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22<sup>nd</sup> day of November 2005, 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, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	Keating
ABSENT:	Councilmembers:	Jackman, Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-585**

**A RESOLUTION AUTHORIZING THE APPOINTMENT  
OF MAYOR JIM RIDENOUR AND COUNCILMEMBER JANICE KEATING  
AS COUNCIL REPRESENTATIVES AND COUNCILMEMBER BRAD HAWN  
AS ALTERNATE TO THE MID DOMESTIC WATER POLICY BOARD**

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

WHEREAS, the MID Domestic Water Policy Board is the Policy Board that implements the Treatment and Delivery Agreement between MID and the City of Modesto for the Modesto Water Treatment Plant.

WHEREAS, the policy board was originally comprised of three agencies: MID, City of Modesto and Del Este each with two seats. Since the City of Modesto bought Del Este in 1996, the City of Modesto held four of the six seats.

WHEREAS, the revised TDA changed the number of seats for the City of Modesto from four seats to two seats effective November 1, 2005.

WHEREAS, the MID Domestic Water Policy Board now includes two members of the Modesto City Council to act in an advisory capacity to staff in carrying out the provisions of the agreement and also act in an advisory capacity to the legislative bodies of the parties of these agreements, and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that Mayor JIM RIDENOUR, Councilmember JANICE KEATING, and Councilmember BRAD HAWN as alternate are hereby appointed as the City Council representatives to the MID Domestic Water Policy Board.

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 December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-586**

**A RESOLUTION APPROVING THE 2006 CITY COUNCIL MEETING  
CALENDAR**

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2006 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 6<sup>th</sup> day of December, 2005, 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: Hawn, Jackman, Keating, Marsh, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

City Council Calendar  
2006

**DRAFT**

**January 2006**

3<sup>rd</sup> Council Meeting (regular)  
10<sup>th</sup> Council Meeting (regular)  
17<sup>th</sup> NO MEETING  
24<sup>th</sup> Council Meeting (regular)  
31<sup>st</sup> NO MEETING – 5<sup>th</sup> Tuesday

**July 2006**

5<sup>th</sup> Council Meeting (special)  
11<sup>th</sup> Council Meeting (regular)  
18<sup>th</sup> NO MEETING  
25<sup>nd</sup> CANCELLED

**February 2006**

7<sup>th</sup> Council Meeting (regular)  
14<sup>th</sup> Council Meeting (regular)  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> Council Meeting (regular)

**August 2006**

2<sup>nd</sup> Council Meeting (special)\*  
8<sup>th</sup> Council Meeting (regular)  
15<sup>th</sup> NO MEETING  
22<sup>nd</sup> CANCELLED  
29<sup>th</sup> NO MEETING – 5<sup>th</sup> Tuesday

**March 2006**

7<sup>th</sup> Council Meeting (regular)  
14<sup>th</sup> Council Meeting (regular)  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> Council Meeting (regular)

**September 2006**

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)

**April 2006**

4<sup>th</sup> Council Meeting (regular)  
11<sup>th</sup> CANCELLED  
18<sup>th</sup> NO MEETING  
25<sup>th</sup> Council Meeting (regular)

**October 2006**

3<sup>rd</sup> Council Meeting (regular)  
10<sup>th</sup> Council Meeting (regular)  
17<sup>th</sup> NO MEETING  
24<sup>th</sup> Council Meeting (regular)  
31<sup>st</sup> NO MEETING – 5<sup>th</sup> Tuesday

**May 2006**

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

**November 2006**

8<sup>th</sup> Council Meeting (special)\*\*  
14<sup>th</sup> Council Meeting (regular)  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> Council Meeting (regular)

**June 2006**

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)

**December 2006**

5<sup>th</sup> Council Meeting (regular)  
12<sup>th</sup> Council Meeting (regular)  
19<sup>th</sup> CANCELLED per MMC 2-1.01  
26<sup>th</sup> CANCELLED per MMC 2-1.01

\*August 2<sup>nd</sup> Wednesday Meeting due to National Night Out

\*\*November 8<sup>th</sup> Wednesday Meeting due to Election Day on November 7th

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-587**

**A RESOLUTION APPROVING A CFF ROW REIMBURSEMENT AGREEMENT BETWEEN CITY OF MODESTO AND WILLIAM LYON HOMES, INC. FOR RIGHT OF WAY ON FLOYD AVENUE AND CLAUS ROAD (BETWEEN FINE 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 desires to construct Claus Road to expressway status, and

WHEREAS, the future Claus Road will become an expressway and additional right of way is necessary for the future realignment of Claus Road, and

WHEREAS, William Lyon Homes, Inc. ("Developer") has agreed to dedicate right of way on Floyd Avenue (between Fine Avenue and Claus Road) for the future intersection improvement of Floyd and Claus and along Claus Road for the future Claus Road expressway and along Claus Road for the construction of a Class I bike trail, and

WHEREAS, the City Council has considered the proposed CFF Right of Way Reimbursement Agreement ("Agreement") between City of Modesto and Developer, and

WHEREAS, the CFF program is a pay as you go program whereby fees are collected as permits are issued, and

WHEREAS, the right of way for dedication is included in the cost calculations of the CFF program, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$1,326,367, of which \$1,193,544 will be allocated from the Streets CFF fund, and

\$132,823 will be allocated from the Air Quality CFF fund in fiscal year 06-07 by July 15, 2006, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2004-58, which concludes that the Falling Leaf Subdivision, including the improvements for which the Developer will be reimbursed under the proposed Acquisition and Shortfall 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 finds and determines that:

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and William Lyon Homes, Inc. ("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 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 4-7, above.

BE IT FUTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and William Lyon Homes is hereby approved and 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-588**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR PROPOSALS FOR THE FURNISHING OF JANITORIAL SERVICES, FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT AND THE JOINT POWERS AGENCY, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN ESTIMATED ANNUAL COST OF \$290,292**

WHEREAS, the Parks, Recreation and Neighborhoods Department and the Joint Powers Agency (JPA) have requested janitorial services for the Modesto Centre Plaza (MCP) and 1010 Tenth Street Place (TSP), and

WHEREAS, by combining these two (2) locations, both the City and the JPA can take advantage of economies of scale for janitorial services, and

WHEREAS, janitorial services include, but are not limited to, daily maintenance for offices, restrooms and lobby areas, and

WHEREAS, additional services are required at the MCP for event clean up, and

WHEREAS, daily maintenance services include:

- Vacuum, spot clean, and deep clean carpeted areas
- Sweep, mop and maintain all hard surfaced floors
- Empty all trash containers and replace trash container liners
- Clean and sanitize restroom facilities
- Change bulbs and lamps in light fixtures
- Clean entrance areas to the building
- General litter and debris removal in outdoor areas
- Clean sand urns to remove cigarettes and other debris
- Clean exterior light fixtures, 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 janitorial services will conform to Modesto Municipal Code Section 8-3.203,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Supervisor to formally solicit Request for Proposals for the furnishing of janitorial services for the Parks, Recreation and Neighborhoods Department and the Joint Powers Agency for a two (2) year agreement with three (3) one-year extension options, at an estimated annual cost of \$290,292 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for the furnishing of janitorial services, for a two (2) year agreement, with three (3) one-year extension options, 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 by an evaluation committee 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 6<sup>th</sup> day of December 2005, 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, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-589**

**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 December 2005, 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, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

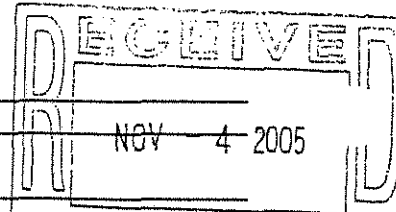
ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

REQUEST FOR BUDGET ADJUSTMENT



Contact Person: Julie Hendee  
 Telephone No.: 342-2241  
 Department: Public Works  
 Fund Title: Water Fund

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
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DEPARTMENTAL REVENUES

<u>FROM</u>					
MY-6180-430-W368-8122			\$38,000	\$38,000	Refunds, Damages, Recovery
<u>TO</u>					

APPROPRIATIONS

<u>FROM</u>					
MY-6180-430-W368-6030.32		\$38,000	(\$38,000)		Land Acqn/ROW - CIP
<u>TO</u>					
MY-6180-430-W368-6030.32			\$38,000	\$38,000	Land Acqn/ROW - CIP
MY-6180-430-W430-6050		\$15,889	\$38,000	\$53,889	Wellhead Treatment- Primary - Contingency

TRANSFERS BETWEEN FUNDS

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

COMMENTS/JUSTIFICATION

This budget transfer is being made to recognize revenue in Secondary CIP Account No. 6180-430-W368-8122 (Refunds, Damages & Recovery) in the amount of \$38,000 received by the City of Modesto from the Trust Account at Miller, Axline and Sawyer as reimbursement for the purchase of property to install GAC units at Well #21 to mitigate PCE and bring this well back online as a viable water source. These funds are part of a Settlement for damages to this well by the Dry Cleaner located in McHenry Village. Additionally, this action increases the budget by \$38,000 in object 6030 in this same project account. Finally, this action further provides for the transfer of these same funds back to the Wellhead Treatment - Primary Account No. 6180-430-W430-6052 (Contingency) which fronted the funding for this purchase in the first place. These actions provide the necessary audit trail for both the expense and offsetting revenue associated with mitigating Well #21.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>Julie Hendee</i>	11-1-05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>Jim Tur</i>	11/3/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)	<i>John R</i>	11/2/05
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers in/out of Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance  
 Fund Title: Water Fund

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

### November Monthly Adjustment

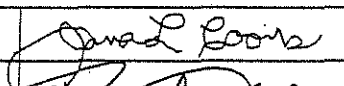

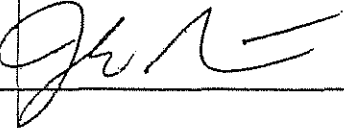
Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
<b>DEPARTMENTAL REVENUES</b>					
<b>FROM</b>					
MY-6180-430-W410-3763			\$8,320	\$8,320	MID Contribution
<b>TO</b>					

### APPROPRIATIONS

<b>FROM</b>					
<b>TO</b>					
MY-6180-430-W410-6010	W410C	\$150,000	\$8,320	\$158,320	Urban Water Management Plan

### COMMENTS/JUSTIFICATION

This monthly adjustment is to recognize the MID Contribution for their portion of the Urban Water Management Plan and Amend the FY06 CIP budget to appropriate the \$8,320 to the Plan.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II		7-Nov-05
DEPUTY DIRECTOR (Public Works)		11.7.05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		11/8/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFE/CFD ADMINISTRATOR		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary line movement in or out)		

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison/Dean Phillips  
 Telephone No.: 1-5855  
 Department: Public Works  
 Fund Title: Gas Tax

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

November Monthly Adjustments

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
<b>DEPARTMENTAL REVENUES</b>					
<b>FROM</b>					
MY-0700-430-H485-3532			\$194,766	\$194,766	RSTP Federal Funding
MY-0700-800-H485-8005			\$10,000		Gas Tax Reserves
<b>TO</b>					
				\$194,766	

APPROPRIATIONS

<b>FROM</b>					
06-0510-800-8000-8003	0510R		(\$25,234)	(\$25,234)	LTF Contingency
06-0700-800-8000-8003	0700R		(\$25,000)	(\$25,000)	Gas Tax Contingency
<b>TO</b>					
MY-0700-430-H485-6010		\$10,000	\$194,766	\$204,766	Design for FY05/06 Pavement Mgmt
MY-0700-430-H485-601D			\$25,234	\$25,234	FY05/06 Pavement Mgmt
06-0700-800-8000-8003	0700R		\$25,234	\$25,234	Gas Tax Contingency
			\$25,234		

TRANSFERS BETWEEN FUNDS

<b>FROM</b>					
MY-0510-700-H485-7070	H485G		\$25,234	\$25,234	Transfer LTF Match
<b>TO</b>					
MY-0700-700-H485-9051			\$25,234	\$25,234	Transfer LTF Match

COMMENTS/JUSTIFICATION

The City of Modesto has been granted lead agency for the 05/06 Pavement Management by the Stanislaus Council of Governments (StanCOG). This project will determine the needs of all cities and Stanislaus County for Pavement Management. The City has received funding for \$220,000 of which \$194,766 (88.53%) is funded with RSTP monies. The remaining match of \$25,234 (11.47%) will come from LTF from all jurisdictions held by StanCOG. This adjustment is to amend the FY 06 CIP budget to increase project 0700-430-H485 to reflect the amount of funds available to the City of Modesto for this purpose (\$220,000).

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II	<i>[Signature]</i>	11-9-05
DEPUTY DIRECTOR (Public Works Dept)	<i>[Signature]</i>	11-9-05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>[Signature]</i>	11/9/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFE/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)		



11-17-05  
ATM

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Dolly Haskell  
 Telephone No.: 342-2202  
 Department: Public Works

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

FY: 05-06

Fund Title: Water CIP

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

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

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

**APPROPRIATIONS**

<u>FROM</u>					
MY-6180-430-W430-6052	W430	\$626,252	(\$134,000)	\$492,252	WELLHEAD TREATMENT - PRIMARY (A)
MY-6180-480-W428-6052	W428	\$517,800	(\$104,580)	\$412,420	STRENGTH/REPLACE H2O SYS-PRIMARY (A)
MY-6180-800-8000-8003	6180R	\$238,580	(\$238,580)		Water CIP Reserves (B)
MY-6180-480-W455-6052	W455	\$371,580	(\$338,580)	\$33,000	REPLACEMENT PUMPS - PRIMARY (C)
<u>TO</u>					
MY-6180-800-8000-8003	6180R		\$238,580	\$238,580	Water CIP Reserves (A)
MY-6180-480-W455-6052	W455	\$133,000	\$238,580	\$371,580	REPLACEMENT PUMPS - PRIMARY (B)
MY-6180-480-W376-6010	W455		\$14,850	\$14,850	SO. MOD. PUMP STATIONS - SECONDARY
MY-6180-480-W376-6041	W455		\$297,000	\$297,000	Engineering/Design/Admin (C)
MY-6180-480-W376-6050	W455		\$14,850	\$14,850	City Forces Construction (C)
MY-6180-480-W376-6060	W455		\$11,880	\$11,880	Construction Contingency (C)
					Construction Administration (C)

**COMMENTS/JUSTIFICATION**

To establish a new Water CIP Secondary Project for the installation of 4 ea 2500-gpm pumps at Tank 6 (1), Tank 7 (2), and Tank 8 (1). These pumps are in addition to those being installed as part of the South Modesto Interim Water Improvement project (W336). Staff has determined these added pumps are necessary to improve efficiency of the system, reduce maintenance costs, and provide the needed redundancy for emergency back-up. These new pumps are funded in their entirety by the City.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>[Signature]</i>	11-17-2005
DEPUTY DIRECTOR (Public Works) Authorized up to threshold of \$50k w/o Director Approval	<i>[Signature]</i>	11-17-05
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval	<i>[Signature]</i>	11-17-05
* second signature required for movement of funds between orgs & line items controlled by different divisions (e.g. Water and E&T)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT <i>Acting</i> (Allocation of Dept Appr to Line-Item Level)	<i>[Signature]</i>	11.17.05
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)	<i>[Signature]</i>	11-17-05

**REQUEST FOR BUDGET ADJUSTMENT**

Contact Person: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_  
 Department: Finance Department  
 Fund Title: Water and Wastewater Funds

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

**November Monthly Adjustment**

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

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

**APPROPRIATIONS**

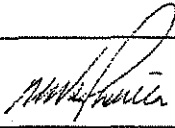
<u>FROM</u>					
06-6100-800-8000-8003	6100R		(\$33,300)	(\$33,300)	Water Contengency
06-6210-800-8000-8003	6210R		(\$108,750)	(\$108,750)	Wastewater Contingency
06-0100-800-8000-8003	0100R	\$858,490	(\$142,050)	\$716,440	General Fund Contingency
<u>TO</u>					
06-0100-800-8000-8003		\$716,410	\$142,050	\$858,460	General Fund Contingency
06-0100-120-1205-0235		\$184,724	\$142,050	\$326,774	Professional Services

**TRANSFERS BETWEEN FUNDS**

<u>FROM</u>					
06-6100-700-1205-7010	1205G		\$33,300	\$33,300	Transfer for Foresight Contract
06-6210-700-1205-7010	1205GG		\$108,750	\$108,750	Transfer for Foresight Contract
<u>TO</u>					
06-0100-700-1205-9610			\$33,300	\$33,300	Transfer for Foresight Contract
06-0100-700-1205-9621			\$108,750	\$108,750	Transfer for Foresight Contract

**COMMENTS/JUSTIFICATION**

On June 7, 2005 A Bluesheet went to council requesting Water and Wastewater reserves for the purpose of continuing work required on the Water Study and Wastewater Study for the purposes of Cost of Service and Rate allocations. The resolutions language in the original Bluesheet was not specific in where those funds should be sent and allocated to. This adjustment serves to clarify and allocate the funds stated in June of 2005. The adjustment does not increase the original figures

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)		11/15/05
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)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Annette Byrne  
 Telephone No.: 577-5494  
 Department: PR&N

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

Fund Title: \_\_\_\_\_

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

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

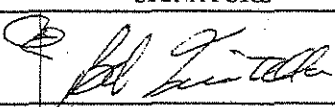
<u>FROM</u>					
<u>TO</u>					NOV - 3 2005

**APPROPRIATIONS**

<u>FROM</u>					
0310-800-8000-8003			(\$18,275)		Contingency Reserve
<u>TO</u>					
0310-440-4402-0110	4402A	\$427,896	\$18,275	\$446,171	Salaries & wages

**COMMENTS/JUSTIFICATION**

This action appropriates from reserves the amount of additional unbudgeted and unspent revenues received in FY 2005 for solid waste activities. Revenue derived from Stanislaus County AB 939 payment; garbage hauler payments for recycle public education; compliance order fines; and ink jet recycling.  
 The additional revenue will be appropriated to salaries and wages and will be used for Council adopted salary increases.

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)	<i>J.H.</i>	
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tina Rocha  
 Telephone No.: Ext. 75321  
 Department: City Manager

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

Fund Title: \_\_\_\_\_  
 CFD No. 2004-1 (Fund 2690)

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

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

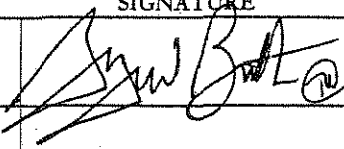
<b>FROM</b>					OCT 31 2005
		TOTAL			
<b>TO</b>					
		TOTAL			

**APPROPRIATIONS**

<b>FROM</b>					
2690-800-8000-8208			\$50,470	\$50,470	
		TOTAL	\$50,470		
<b>TO</b>					
2690-020-X527-6030	X527		\$50,470	\$50,470	ROW/Land Acquisition
		TOTAL	\$50,470	\$50,470	

**COMMENTS/JUSTIFICATION**

This will allow the CFD to reimburse PPC Tuolumne Grove 2, LLC for right-of-way dedication. There is no general fund impact.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		10/25/2005
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. 2005-590**

**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 specification for the following classifications:

1. Animal Control Officer I/II

Said job specification for the classifications of Animal Control Officer I/II is being amended to update the essential functions and experience and training guidelines to more accurately reflect the requirements of these classifications. The job specification for the classifications of Animal Control Officer I/II as shown on the attached Exhibit "A", which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after December 6, 2005.

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 December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

ANIMAL CONTROL OFFICER I  
ANIMAL CONTROL OFFICER 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 protect citizens from dangerous or hazardous animals; to enforce City and local ordinances governing the care and keeping of domestic and wild animals in the City; to capture and impound animals, as appropriate and to promote responsible pet ownership.

Note: When working in a field setting, all Animal Control Officers are required to carry a firearm and wear a ballistic vest.

DISTINGUISHING CHARACTERISTICS

Animal Control Officer I - This is the entry training level class in the Animal Control Officer series. This class is distinguished from the Animal Control Officer II by the performance of the more routine tasks and duties assigned to positions within the series. Since this is the training level, ~~class is typically used as a training class~~, employees may have only limited directly related work experience.

Animal Control Officer II - This is the full journey level class within the Animal Control Officer series. Employees within this class are distinguished from the Animal Control Officer I by the performance of the full range of duties as assigned including a full workload. 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. Positions in this class are flexibly staffed and are normally filled by advancement from the I level class, or when filled from the outside, require directly related experience.

SUPERVISION RECEIVED AND EXERCISED

Receives immediate supervision from sworn and non-sworn police supervisory staff.

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

EXHIBIT "A"

Essential Functions:

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.

Prioritize calls using effective time management methods.

Investigate reports of animal abuse, and take appropriate action.

Enforce City animal control and licensing laws; ensure the safe capture and handling of animals including vicious, injured and stray animals.

Issue citations for violations of animal control and licensing ordinances.

Write incident reports, gather evidence, prepare and present cases at administrative hearings.

Explain ordinances relating to the care and keeping of animals to the public; promote and provide education to the public regarding the keeping and caring of pets.

Maintain contact with citizens regarding animal control issues and problems and preserve good relationships with the general public; take an active role in public education related to animal control issues.

Patrol a designated area of City streets, roads and parks in a truck; search for stray or abandoned animals; capture and confine animals using appropriate procedures.

Impound and quarantine animals, as appropriate.

In field conditions, may euthanize severely injured animals, as required.

Attend meetings and respond to related questions and complaints; provide public education regarding animal control.

Clean and maintain the animal control vehicle and cages utilized to detain the animals.



Essential Functions: (Continued)

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.

Prepare and maintain a variety of records and reports.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Animal Control Officer I

Knowledge of:

Basic methods of animal collection and impoundment.

Procedures and techniques for working with the public in a tactful but firm manner.

Basic personal computer operation.

Ability to:

Enforce animal regulations and ordinances.

Prepare written reports and maintain an efficient record keeping system.

Learn to interpret and apply pertinent laws, codes and regulations related to animal control with impartiality and efficiency. ~~animal regulations and ordinances.~~

Use sound judgment; analyze situations and determine appropriate action.

Think and act quickly in emergency situations.

EXHIBIT "A"

Ability to: (Continued)

Understand and carry out oral and written instructions.

Communicate effectively, both orally and in writing.

Work with the public in general and in difficult work situations.

Learn the operation of standard equipment required for job performance including the use of a computer and police radio.

~~Learn to interpret and apply laws and regulations of the City related to animal control and licensing.~~

Use maps and learn City geography.

Use and care for firearms.

Animal Control Officer II

In addition to the qualifications for Animal Control Officer I:

Knowledge of:

Various breeds of dogs, cats, marine and other wild or domestic animals.

Various kinds types of animal behavior.

Various provisions of penal code 830 related to animal control and penal code 832-arrest and firearms.

Police protocols and standard operating procedures.

First aid and CPR procedures and practices.

Ability to:

Work independently, prioritize calls and respond appropriately to a variety of animal complaints.

Perform a variety of animal control activities such as animal handling, capturing, and confining.

EXHIBIT "A"

Ability to: (Continued)

Euthanize severely injured animals in emergencies.

Communicate clearly and concisely, both orally and in writing; write defensible reports.

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:

Animal Control Officer I

Experience:

One year of experience working with animals is desirable.

Training:

Equivalent to the completion of the twelfth grade.

License or Certificate:

~~Possession of, or ability to obtain, an appropriate, valid California driver's license.~~

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.

EXHIBIT "A"

Animal Control Officer II

Experience:

Two years of responsible animal control experience or one year as an Animal Control Officer I with the City of Modesto.

Training:

Equivalent to the completion of the twelfth grade.

License or Certificate

~~Possession of, or ability to obtain, an appropriate, valid California driver's license.~~

Possession of an appropriate, valid driver's license at time of application; valid California driver's License by time of appointment.

Possession of a valid POST approved P.C. 832 Certificate.

If hired at level II, 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.

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.

EXHIBIT "A"

Work Assignment:

Wear 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. 2005-591**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-485  
TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN  
CLASSES TO CHANGE THE SALARY RANGE FOR ANIMAL CONTROL  
OFFICER I TO SALARY RANGE 114 AND TO CHANGE THE SALARY  
RANGE FOR ANIMAL CONTROL OFFICER II TO SALARY RANGE 119**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution  
No. 2005-485,

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 December 6, 2005," 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 Animal Control Officer I from range 110 to range 114 and changes the salary  
range for Animal Control Officer II from range 115 to range 119.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and  
after December 6, 2005.

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 December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
 CLASS RANGE TABLE  
 GENERAL NON-SWORN CLASSES  
 Effective **December 6, 2005**

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	<b>Animal Control Officer I</b> Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

Exhibit "A"



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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 <b>Animal Control Officer II</b> 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	Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-592**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF  
RETIRED CITY OF MODESTO POLICE CANINE DAX BY THE ASSIGNED  
MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER LEE, 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 Lee, wishes to  
purchase and assume possession of his assigned canine, Dax, 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 Lee for the purchase of his retired  
police canine, Dax, 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 December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By R. J. Milich  
MICHAEL D. MILICH, City Attorney

Exhibit A  
Modesto Police Department Canine  
Transfer Contract – Office Lee

## MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this 23rd day of **October, 2005**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and John Lee, previous 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 "Dax". *HANDLER* was previously the assigned canine handler for "Dax".

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 "Dax", 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 **October 23, 2005**.

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

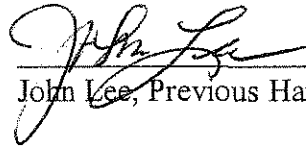
4. The retired police canine "Dax" shall revert to CITY should the purchaser, *HANDLER* determine he/she can no longer care for the aforementioned dog within the period of time commencing on the date of this AGREEMENT and ending eighteen (18) months from the date fixed by this AGREEMENT.

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



John Lee, Previous Handler

CITY OF MODESTO

---

George Britton, City Manager

ATTEST:

By  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-593**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$15,000 TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR CHRYSLER ELEMENTARY, 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 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 September 1, 2005, to May 31, 2006, and

WHEREAS, the City shall be compensated \$15,000 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

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 \$15,000 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for Chrysler Elementary, Prescott Junior High School and schools within 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-594**

**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 Office of Education 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 September 1, 2005, to May 31, 2006, and

WHEREAS, the City shall be compensated \$15,000 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

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 \$15,000 Officers' Overtime Hour Cost  
Revenue:

From: 0100-190-1941-3730 \$15,000 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-595**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$63,750 FOR THE PROVISION OF OVERTIME AND ASSOCIATED COSTS FOR 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 AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Stanislaus County Office of Education requires 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, the term of this agreement is September 1, 2005, to May 31, 2006, and

WHEREAS, the City shall be compensated \$63,750 for the services of overtime and associated costs for Modesto Police Officers, 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 \$63,750 for the provision of overtime and associated costs for Police Officers at Chrysler Elementary, Prescott Junior High School and schools within 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-596**

**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 requires 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, the term of this agreement is September 1, 2005, to May 31, 2006, and

WHEREAS, the City shall be compensated \$63,750 for the services of overtime and associated costs for Modesto Police Officers, 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 \$63,750 Officers' Overtime Hours Cost

Revenue:

From: 0100-190-1921-3730 \$63,750 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-597**

**A RESOLUTION APPROVING A JOINT POWERS AGREEMENT BETWEEN  
THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO TO  
FACILITATE CONSTRUCTION BY THE CITY OF THE IMPROVEMENTS TO  
(1) THE INTERSECTION OF PELANDALE AND SISK ROAD AT THE STATE  
ROUTE 99 FREEWAY, AND (2) IMPROVEMENT OF PELANDALE AVENUE  
BETWEEN STATE ROUTE 99 AND A POINT 1,400 FEET EAST OF MCHENRY  
AVENUE, WHICH ARE PARTIALLY LOCATED WITHIN THE CITY LIMITS  
AND WITHIN THE UNINCORPORATED AREA OF THE COUNTY AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the widening of Pelandale Avenue to full six-lane expressway status is partially located within the City limits and within the unincorporated area of the County, and

WHEREAS, the intersection improvements on Pelandale Avenue and Sisk Road at the State Route 99 northbound on-ramp are partially located within the City limits and within the unincorporated area of the County, and

WHEREAS, the Project design will require the partial take of nine (9) privately owned parcels of land within the unincorporated area of the County, and

WHEREAS, pursuant to Section 1810 of the Streets and Highways Code, the County must consent to the acquisition of Project rights-of-way by the city outside its boundaries in the unincorporated area of the County, and

WHEREAS, the City shall take the lead on design and environmental work for these projects, and

WHEREAS, the County shall have the right to review, comment upon, and inspect any and all Project plans, specification and designs, and construction lying within the unincorporated area of the County, and

WHEREAS, an agreement with the County is necessary in order to facilitate construction by the City of the roadway improvements on Pelandale Avenue between State Route 99 and a point 1,400 east of McHenry Avenue, and

WHEREAS, the Pelandale Avenue Capital Improvement Projects were reviewed at the January 24, 2005, Finance Committee meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Joint Powers Agreement between the City of Modesto and the County of Stanislaus for the roadway improvements on Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-598**

**A RESOLUTION APPROVING THE FINAL MAP OF FALLING LEAF  
SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, WILLIAM LYON HOMES INC, a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 50.70 acres, known as FALLING LEAF ("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 24th day of January, 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 streets, alleys 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, or his designee, 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 6<sup>th</sup> day of December 2005, 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, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-599**

**A RESOLUTION APPROVING THE PRELIMINARY DESIGN PLAN  
PREPARED BY THE BLACK & VEATCH CORPORATION RELATED TO THE  
PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER  
TREATMENT PLANT**

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, at the direction of Council, staff is proceeding with a project to expand the capacity of the MRWTP to an equivalent of 60 million gallons per day, and

WHEREAS, the Council of the City of Modesto adopted Resolution 2003-540, authorizing Modesto Irrigation District to execute an agreement with Black & Veatch Corporation to provide Preliminary Engineering Design Services, not to exceed \$750,000, and

WHEREAS, the Council of the City of Modesto adopted Resolution 2005-380, authorizing Modesto Irrigation District to execute Amendment No. 3 to their existing Agreement with Black & Veatch Corporation in an amount not to exceed an additional \$450,000 for a total Agreement amount of \$1,200,000 to provide additional Preliminary Engineering Design services related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the Domestic Water Policy Committee on November 16, 2005, recommended the Council of the City of Modesto approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the Finance Committee on November 21, 2005 recommended the Council of the City of Modesto approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, MID and City request City Council to approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, by agenda report dated November 16, 2005, the Acting Public Works Director recommends City Council approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-600**

**A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO  
EXECUTE AN AGREEMENT WITH THE BLACK & VEATCH  
CORPORATION IN AN AMOUNT NOT TO EXCEED \$3,091,000 TO PROVIDE  
ENGINEERING SERVICES TO PREPARE THE FINAL DESIGN RELATED TO  
THE PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER  
TREATMENT PLANT**

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, at the direction of Council, staff is proceeding with a project to expand the capacity of the MRWTP to an equivalent of 60 million gallons per day, and

WHEREAS, this expansion is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, the Council of the City of Modesto adopted Resolution 2005-516, approving the amended and restated Treatment and Delivery Agreement with Modesto Irrigation District related to the Phase Two Expansion of the MRWTP, authorizing staff to pursue implementation of the Phase Two Expansion of the MRWTP under the terms of the amended and restated Treatment and Delivery Agreement, and approved the downstream City facilities project as analyzed by the final SEIR, including the design and construction of the downstream City facilities, which includes storage tanks, pipelines, flow control valves, pumps, and associated structures, acquisition of rights of way as necessary to implement the downstream City facilities, and any activities as necessary to obtain necessary permits or authorizations to implement the downstream City facilities, and



WHEREAS, the Domestic Water Policy Committee on November 16, 2005, recommended that the Council of the City of Modesto authorize Modesto Irrigation District to execute an agreement with the Black & Veatch Corporation in an amount not to exceed \$3,091,000 to provide engineering services to prepare the final design related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the Finance Committee on November 21, 2005, recommended that the Council of the City of Modesto authorize Modesto Irrigation District to execute an agreement with the Black & Veatch Corporation in an amount not to exceed \$3,091,000 to provide engineering services to prepare the final design related to the Phase Two Expansion of the MRWTP, and

WHEREAS, under the terms of the Amended and Restated Treatment and Delivery Agreement, MID is required to obtain City authorization to proceed beyond each major project milestone and requires City Council approval for all expenditures greater than \$100,000, and

WHEREAS, concurrently on December 6, 2005, City Council approved by Resolution No. 2005-599, the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, approval authorizing MID to execute an Agreement with Black & Veatch Corporation for final design will allow the project to proceed toward completion, and

WHEREAS, by agenda report dated November 16, 2005, the Acting Director of Public Works recommends that the City Council authorize Modesto Irrigation District to execute an agreement with the Black & Veatch Corporation in an amount not to exceed

\$3,091,000 to provide engineering services to prepare the final design related to the Phase Two expansion of the Modesto Regional Water Treatment Plant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an agreement with the Black & Veatch Corporation in an amount not to exceed \$3,091,000 to provide engineering services to prepare the final design related to the Phase Two expansion of the Modesto Regional Water Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2005 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-601**

**A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO  
PROCEED WITH APPROVAL OF AN ENGINEERING SERVICES CONTRACT  
WITH BLACK & VEATCH CORPORATION FOR STAGE ONE SERVICES  
WITH THE SELECTED MEMBRANE FILTER VENDOR AND AUTHORIZING  
MODESTO IRRIGATION DISTRICT TO PROCEED WITH EXECUTION OF A  
MEMORANDUM OF UNDERSTANDING WITH THE RECOMMENDED  
MEMBRANE FILTER VENDOR FOR A FUTURE GENERAL CONSTRUCTION  
CONTRACT**

WHEREAS, City and MID wish to pursue the design, construction, and operation of the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, at the direction of Council, staff is proceeding with a project to expand the capacity of the MRWTP to an equivalent of 60 million gallons per day, and

WHEREAS, this expansion is needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, a Draft Preliminary Study was completed in February 2004, which extensively studied the various treatment alternatives and based on the analysis, a micro filtration-based membrane process was considered to be the most effective for the expansion of the MRWTP, and

WHEREAS, the MID Board of Directors and the Council of the City of Modesto approved by adoption of Resolution 2005-380, authorizing Amendment No. 3 for the Phase Two Expansion of the MRWTP at their respective meetings on July 12, 2005, and

WHEREAS, the Council of the City of Modesto adopted Resolution 2005-516, approving the Amended and Restated Treatment and Delivery Agreement with Modesto Irrigation District related to the Phase Two Expansion of the MRWTP, authoring staff to

pursue implementation of the Phase Two Expansion of the MRWTP under the terms of the Amended and Restated Treatment and Delivery Agreement, and approved the downstream City Facilities project as analyzed by the final SEIR, including the design and construction of the downstream City facilities, which includes storage tanks, pipelines, flow control valves, pumps, and associated structures, acquisition of rights of way as necessary to implement the downstream City facilities, and any activities as necessary to obtain necessary permits or authorizations to implement the downstream City facilities, and

WHEREAS, Membrane Pre-selection Bids were received and publicly opened on October 21, 2005, from qualified manufactures for a membrane filtration system to be installed at the MRWTP, and

WHEREAS, the Domestic Water Policy Committee on November 16, 2005, recommended the City Council approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, the Finance Committee on November 21, 2005, recommended the Council of the City of Modesto approve the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, concurrently on December 6, 2005, City Council approved by Resolution No. 2005-599, the Preliminary Design Plan prepared by Black & Veatch Corporation related to the Phase Two Expansion of the MRWTP, and

WHEREAS, concurrently on December 6, 2005, City Council approved by Resolution No. 2005-600, Modesto Irrigation District to execute an agreement with Black & Veatch Corporation in an amount not to exceed \$3,091,000 to provide engineering

services to prepare the final design related to the Phase Two Expansion of the MRWTP,  
and

WHEREAS, by agenda report dated November 16, 2005, the Acting Director of Public Works recommends that the City Council authorize Modesto Irrigation District to proceed with approval of an engineering services contract with Black & Veatch Corporation for Stage One services with the selected membrane filter vendor and to proceed with execution of a Memorandum of Understanding with the recommended membrane filter vendor for a future general construction contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to proceed with approval of an engineering services contract with Black & Veatch Corporation for Stage One services with the selected membrane filter vendor and authorizing Modesto Irrigation District to proceed with execution of a Memorandum of Understanding with the recommended membrane filter vendor for a future general construction contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2005 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, Mayor Ridenour

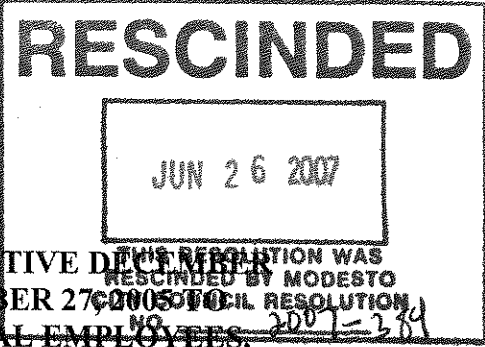
NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-602**

**A RESOLUTION GRANTING BENEFIT CHANGES EFFECTIVE DECEMBER 6, 2005 AND SALARY CHANGES EFFECTIVE DECEMBER 27, 2005 TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, AND RESCINDING RESOLUTION NO. 2005-307 EFFECTIVE DECEMBER 5, 2005 AND RESOLUTION NO. 2003-330 EFFECTIVE DECEMBER 26, 2005.**

WHEREAS, by Resolution No. 95-530 which became effective on November 7, 1995, the City Council amended the salary schedules for unrepresented Management and Confidential employees, excluding Charter Officers and Executives, to incorporate a 9-Step Salary Step Plan, and

WHEREAS, by Resolution No. 2003-331 which became effective on June 24, 2003 the City Council established new salary schedules and class ranges for unrepresented Management and Confidential non-sworn employees, and

WHEREAS, by Resolution 2005-307, which became effective July 26, 2005, the City Council increased the City's contribution to health, dental and vision benefits for unrepresented Management and Confidential employees, and

WHEREAS, the Council of the City of Modesto desires to approve a three and one half (3.5%) percent increase in salary ranges for unrepresented Management and Confidential employees, including Executives and Charter Officers, effective December 27, 2005 and a three and one-half (3.5%) percent increase in salary ranges effective December 26, 2006, and

WHEREAS, the Council of the City of Modesto desires to approve a three and one-half (3.5%) percent across-the-board salary increase for unrepresented Management and Confidential employees, excluding Executives and Charter Officers, effective

December 27, 2005 and a three and one half (3.5%) percent across-the-board increase effective December 26, 2006. Salary increases for Executives shall be at the discretion of the City Manager, within approved salary ranges. Salary increases for Charter Officers shall be three and one-half (3.5%) percent effective December 27, 2005. Additional increases for Charter Officers, including salary increases effective December 26, 2006, shall require separate action by the City Council, and

WHEREAS, the Council desires to grant additional increases in the City's contribution to health, dental, and vision benefits for non-sworn employees with Family coverage by \$10/month effective July 26, 2005 and by \$25/month effective July 25, 2006, in addition to increases previously authorized, and

WHEREAS, the Council desires to increase the City's contributions to employees' mandatory 401(a) Money Purchase deferred compensation plans by 1%, and

WHEREAS, the Council desires to increase the amount of unused Management Leave available for annual cashout for designated classifications, by 10 hours per year effective December 2006 and by another 10 hours per year effective December 2007, and

WHEREAS, the Council desires to establish quarterly pay out of unused Compensatory Time Off (CTO) for newly hired overtime-eligible Management and Confidential employees for all CTO hours in excess of 100 hours, and

WHEREAS, the Council desires to change the annual Management Leave allocation for overtime-eligible Management employees to 40 hours and their annual maximum cashout to 20 hours, and

WHEREAS, the Council desires to provide a Fire Chief Officer stipend of \$1,000 per 24-hour shift for Fire Battalion and Division Chiefs assigned to work extra shifts in



order to maintain consistent staffing under certain circumstances, and

WHEREAS, the Council desires to increase the Uniform Allowance for sworn Police Management to ninety-four dollars (\$94.00) per month, effective January 1, 2008, and

WHEREAS, the Council desires to make changes to various policies and procedures for unrepresented employees relating to use of negative vacation, duration of probationary periods, deferred compensation service dates, domestic partners, catastrophic leave, and medical leaves of absence,

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

SECTION 1. SALARY RANGES, RATES AND EFFECTIVE DATES. The salary rates, salary ranges and salary steps as set forth in the following exhibits which are attached hereto and made a part hereof supercede Resolution No. 2003-330 which was effective July 1, 2003, to provide for a three and one half (3.5%) percent across-the-board salary adjustment for unrepresented Management and Confidential employees effective December 27, 2005, and an additional three and one-half (3.5%) across-the-board increase effective December 26, 2006, subject to Pay-for-Performance criteria. For Executive Management and Charter Officers, salary ranges shall be increased by three and one half (3.5%) percent effective December 27, 2005 and by three and one-half (3.5%) percent effective December 26, 2006. Actual salary increases for Executives, excluding Charter Officers, shall be at the discretion of the City Manager, within approved salary ranges.

1. Exhibit "A" entitled "City Of Modesto Class Range Table, Unrepresented Management And Confidential Non-Sworn Classes,

Effective December 27, 2005."

2. Exhibit "B" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06 Effective December 27, 2005 - Schedule H Management/Confidential – Non-Sworn Unrepresented."
3. Exhibit "C" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 06/07 Effective December 26, 2006 - Schedule H Management/Confidential – Non-Sworn Unrepresented."
4. Exhibit "D" entitled "City Of Modesto Class Range Table, Fire Management Classes, Effective December 27, 2005."
5. Exhibit "E" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06, Effective December 27, 2005 - Schedule E Management/Confidential - Fire- 80 hours - Division Chief."
6. Exhibit "F" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 06/07, Effective December 26, 2006 - Schedule E Management/Confidential - Fire- 80 hours - Division Chief."
7. Exhibit "G" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06, Effective December 27, 2005 - Schedule X, Fire Management - 80 Hrs. - Battalion Chief."
8. Exhibit "H" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 06/07, Effective December 26, 2006 - Schedule X, Fire Management - 80 Hrs. - Battalion Chief."
9. Exhibit "I" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06, Effective December 27, 2005 - Schedule Y, Fire Management - 112 Hrs. - Battalion Chief."
10. Exhibit "J" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 06/07, Effective December 26, 2006 - Schedule Y, Fire Management - 112 Hrs. - Battalion Chief."
11. Exhibit "K" entitled "City Of Modesto Class Range Table, Police Management Classes (Unrepresented), Effective December 27, 2005."
12. Exhibit "L" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06, Effective December 27, 2005 - Schedule G Management/Confidential - Police - Unrepresented."
13. Exhibit "M" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 06/07, Effective December 26, 2006 - Schedule G

Management/Confidential - Police - Unrepresented."

14. Exhibit "N" entitled "City Of Modesto Class Range Table, Executive Management, Effective December 27, 2005" which includes Charter Officers.
  
15. Exhibit "O" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 05/06, Effective December 27, 2005 - Executive Management."
  
16. Exhibit "P" entitled "City of Modesto Schedule of Salary Ranges in City Service For FY 06/07, Effective December 26, 2006 – Executive Management."

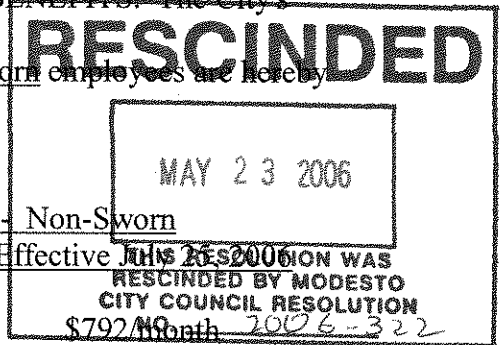
SECTION 2. CHARTER OFFICERS. Effective December 27, 2005, the salaries for the positions of the Charter Officers shall be as follows:

<u>TITLE</u>	<u>HOURLY</u>	<u>BI-WEEKLY</u>	<u>MONTHLY</u>
City Manager George W. Britton	\$76.341	\$6,107.32	\$13,283.42
City Attorney Michael D. Milich	\$72.7709	\$5,821.67	\$12,662.13
City Clerk Jean Zahr	\$45.7673	\$3,661.38	\$ 7,963.51

SECTION 3. HEALTH, DENTAL AND VISION BENEFITS. The City's

contribution to health, dental and vision benefits for non-sworn employees are hereby increased, to the following amounts:

	<u>City Contribution - Non-Sworn</u> <u>Effective July 26, 2005</u>	<u>Effective July 26, 2006</u>
Family	\$722/month	\$792/month
Employee Only	\$435/month	\$480/month
Opt Out	\$385/month	\$390/month



The City's contributions to unrepresented sworn Fire management and unrepresented sworn Police management employees' health, dental and vision benefits are hereby increased to the following amounts:

	<u>City Contribution - Sworn</u>	
	<u>Effective July 26, 2005</u>	<u>Effective July 25, 2006</u>
Family	\$767/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.

**SECTION 4. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS.** The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

**SECTION 5. COMPENSATORY TIME OFF CAP.** Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO

cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 6. MANAGEMENT AND CONFIDENTIAL LEAVE. Management Leave for Management employees shall be 80 hours annually, effective January 1, 2002, except that for overtime-eligible Management employees the annual allocation shall be 40 hours effective calendar year 2006. For Fire Battalion Chiefs on a 56-hour schedule, the annual allocation of Management Leave shall be 112 hours, and for Confidential employees Leave shall be 20 hours annually, effective January 1, 2002.

SECTION 7. MANAGEMENT AND CONFIDENTIAL LEAVE ANNUAL CASHOUT. The maximum number of hours available for cashout each December shall be 40 hours annually for Management employees, except that for overtime-eligible Management employees the maximum cashout shall be 20 hours effective calendar year 2006. Maximum annual cashout shall be 18 hours for Confidential employees, and 60 hours for Executives, including Charter Officers. For Fire Battalion Chiefs on 56-hour schedule, the maximum annual cashout shall be 56 hours.

Effective December 2006, the maximum annual cashout shall increase from 60 to 70 hours for Executives and Charter Officers, and from 40 to 50 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney, and Deputy/Senior Deputy City Attorney I/II. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cashout shall increase from 56 to 70 hours.

Effective December 2007, the maximum annual cashout shall increase from 70 to 80 hours for Executives and Charter Officers, and from 50 to 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City

Attorney and Deputy/Senior Deputy Attorney I/II. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cashout shall increase from 70 to 84 hours.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars (\$1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. The use of negative vacation (vacation use in advance of accrual) shall be phased out except for use in extenuating circumstances, effective March 7, 2006. Effective May 29, 2006, current negative vacation balances shall be offset by any accrued Grandfathered Holiday CTO, Holiday CTO and regular CTO available to the employee. If there is still a remaining balance, it will be offset quarterly by these, or other leaves of the employee. Effective March 7, 2006, use of negative vacation will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The

purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1560 hours. In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and

one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first payperiod to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

<u>Positions</u>	<u>Effective Date</u>	<u>Allowance</u>
Sworn Police	January 1, 2003	\$91.66
	January 1, 2008	\$94.00
Fire Management	January 1, 2004	\$64.58

SECTION 13. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 14. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 15. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical



verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 16. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 17. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 18. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 19. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cashout up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours

of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 20. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be \$400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of \$300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of \$100-\$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business.

SECTION 21. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES. Effective June 22, 1999, Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused sick leave, reduced by hours previously converted to Deferred Compensation, as follows:

(1) Ninety (90%) percent of accrued sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accruing after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 22. USE OF CLASSES. The designated classes of positions may be used in any organizational unit of the City deemed proper by the City Manager.

SECTION 23. POSITIONS. The City Council authorizes and directs the City Manager, within the limits of funds budgeted therefor, to appoint employees in such number and in such classes in each department as may be necessary to properly operate the department under the Charter, ordinances and resolutions adopted by the City Council, including, but not limited to, creating additional positions to replace employees who are on disability leave or other leaves of absence.

SECTION 24. APPOINTMENTS AND SALARIES. The City Manager is hereby authorized to appoint, in accordance with the applicable provisions of the Modesto Municipal Code and Personnel Rules and within the limits of funds budgeted therefor, any person to a position in a class for which he is the appointing authority and for which the salary is hereby provided, to designate the definite salary rate or salary step at which such person is appointed, and the salary so designated is hereby fixed as the salary of such employee for the position.

SECTION 25. SPECIAL SALARY RATES. The City Manager is further authorized, subject to budgetary appropriation control by the City Council, to fix the salary range or rate for part-time, hourly or special positions in the Unclassified Service for which the City Manager is the appointing authority and which are not designated herein.

SECTION 26. PART-TIME EMPLOYMENT. Employees appointed to any of the positions referred to herein who, with the approval of the City Manager, regularly work less hours per week than established for their class by rule 13.1 of the Personnel Rules, shall be paid in approximate proportion of the time worked.

SECTION 27. REPEAL. Resolution No. 2005-307 is hereby rescinded effective

December 5, 2005 and Resolution No. 2003-330 is hereby rescinded effective December 26, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005, 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, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **December 27, 2005**

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RANGE	TITLE
2419	
2420	Executive Secretary – Personnel and City Manager’s Offices
2421	
2422	
2423	
2424	
2425	Executive Assistant Paralegal
2426	
2427	
2428	Accountant II- in City Clerk’s office (Unrepresented)
2429	
2430	
2431	Equal Opportunity Officer
2432	
2433	
2434	
2435	
2436	
2437	Deputy City Attorney I
2438	

**Exhibit "A"**

RANGE      TITLE

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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

**Exhibit "A"**

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

**SCHEDULE - H**  
**MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
2419	19.2293	19.7100	20.2028	20.7079	21.2256	21.7562	22.3001	22.8576	23.4290
2420	19.7100	20.2028	20.7079	21.2256	21.7562	22.3001	22.8576	23.4290	24.0147
2421	20.2028	20.7079	21.2256	21.7562	22.3001	22.8576	23.4290	24.0147	24.6151
2422	20.7079	21.2256	21.7562	22.3001	22.8576	23.4290	24.0147	24.6151	25.2305
2423	21.2256	21.7562	22.3001	22.8576	23.4290	24.0147	24.6151	25.2305	25.8613
2424	21.7562	22.3001	22.8576	23.4290	24.0147	24.6151	25.2305	25.8613	26.5078
2425	22.3001	22.8576	23.4290	24.0147	24.6151	25.2305	25.8613	26.5078	27.1705
2426	22.8576	23.4290	24.0147	24.6151	25.2305	25.8613	26.5078	27.1705	27.8498
2427	23.4290	24.0147	24.6151	25.2305	25.8613	26.5078	27.1705	27.8498	28.5460
2428	24.0147	24.6151	25.2305	25.8613	26.5078	27.1705	27.8498	28.5460	29.2597
2429	24.6151	25.2305	25.8613	26.5078	27.1705	27.8498	28.5460	29.2597	29.9912
2430	25.2305	25.8613	26.5078	27.1705	27.8498	28.5460	29.2597	29.9912	30.7410
2431	25.8613	26.5078	27.1705	27.8498	28.5460	29.2597	29.9912	30.7410	31.5095
2432	26.5078	27.1705	27.8498	28.5460	29.2597	29.9912	30.7410	31.5095	32.2972

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2419	1,538.34	1,576.80	1,616.22	1,656.63	1,698.05	1,740.50	1,784.01	1,828.61	1,874.32
2420	1,576.80	1,616.22	1,656.63	1,698.05	1,740.50	1,784.01	1,828.61	1,874.32	1,921.18
2421	1,616.22	1,656.63	1,698.05	1,740.50	1,784.01	1,828.61	1,874.32	1,921.18	1,969.21
2422	1,656.63	1,698.05	1,740.50	1,784.01	1,828.61	1,874.32	1,921.18	1,969.21	2,018.44
2423	1,698.05	1,740.50	1,784.01	1,828.61	1,874.32	1,921.18	1,969.21	2,018.44	2,068.90
2424	1,740.50	1,784.01	1,828.61	1,874.32	1,921.18	1,969.21	2,018.44	2,068.90	2,120.62
2425	1,784.01	1,828.61	1,874.32	1,921.18	1,969.21	2,018.44	2,068.90	2,120.62	2,173.64
2426	1,828.61	1,874.32	1,921.18	1,969.21	2,018.44	2,068.90	2,120.62	2,173.64	2,227.98
2427	1,874.32	1,921.18	1,969.21	2,018.44	2,068.90	2,120.62	2,173.64	2,227.98	2,283.68
2428	1,921.18	1,969.21	2,018.44	2,068.90	2,120.62	2,173.64	2,227.98	2,283.68	2,340.78
2429	1,969.21	2,018.44	2,068.90	2,120.62	2,173.64	2,227.98	2,283.68	2,340.78	2,399.30
2430	2,018.44	2,068.90	2,120.62	2,173.64	2,227.98	2,283.68	2,340.78	2,399.30	2,459.28
2431	2,068.90	2,120.62	2,173.64	2,227.98	2,283.68	2,340.78	2,399.30	2,459.28	2,520.76
2432	2,120.62	2,173.64	2,227.98	2,283.68	2,340.78	2,399.30	2,459.28	2,520.76	2,583.78

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2419	3,345.89	3,429.54	3,515.28	3,603.17	3,693.26	3,785.59	3,880.22	3,977.23	4,076.65
2420	3,429.54	3,515.28	3,603.17	3,693.26	3,785.59	3,880.22	3,977.23	4,076.65	4,178.57
2421	3,515.28	3,603.17	3,693.26	3,785.59	3,880.22	3,977.23	4,076.65	4,178.57	4,283.03
2422	3,603.17	3,693.26	3,785.59	3,880.22	3,977.23	4,076.65	4,178.57	4,283.03	4,390.11
2423	3,693.26	3,785.59	3,880.22	3,977.23	4,076.65	4,178.57	4,283.03	4,390.11	4,499.86
2424	3,785.59	3,880.22	3,977.23	4,076.65	4,178.57	4,283.03	4,390.11	4,499.86	4,612.35
2425	3,880.22	3,977.23	4,076.65	4,178.57	4,283.03	4,390.11	4,499.86	4,612.35	4,727.67
2426	3,977.23	4,076.65	4,178.57	4,283.03	4,390.11	4,499.86	4,612.35	4,727.67	4,845.86
2427	4,076.65	4,178.57	4,283.03	4,390.11	4,499.86	4,612.35	4,727.67	4,845.86	4,967.00
2428	4,178.57	4,283.03	4,390.11	4,499.86	4,612.35	4,727.67	4,845.86	4,967.00	5,091.20
2429	4,283.03	4,390.11	4,499.86	4,612.35	4,727.67	4,845.86	4,967.00	5,091.20	5,218.48
2430	4,390.11	4,499.86	4,612.35	4,727.67	4,845.86	4,967.00	5,091.20	5,218.48	5,348.93
2431	4,499.86	4,612.35	4,727.67	4,845.86	4,967.00	5,091.20	5,218.48	5,348.93	5,482.65
2432	4,612.35	4,727.67	4,845.86	4,967.00	5,091.20	5,218.48	5,348.93	5,482.65	5,619.72

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

SCHEDULE - H  
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED  
**HOURLY**

Range	1	2	3	4	5	6	7	8	9
2433	27.1705	27.8498	28.5460	29.2597	29.9912	30.7410	31.5095	32.2972	33.1046
2434	27.8498	28.5460	29.2597	29.9912	30.7410	31.5095	32.2972	33.1046	33.9322
2435	28.5460	29.2597	29.9912	30.7410	31.5095	32.2972	33.1046	33.9322	34.7805
2436	29.2597	29.9912	30.7410	31.5095	32.2972	33.1046	33.9322	34.7805	35.6500
2437	29.9912	30.7410	31.5095	32.2972	33.1046	33.9322	34.7805	35.6500	36.5413
2438	30.7410	31.5095	32.2972	33.1046	33.9322	34.7805	35.6500	36.5413	37.4548
2439	31.5095	32.2972	33.1046	33.9322	34.7805	35.6500	36.5413	37.4548	38.3912
2440	32.2972	33.1046	33.9322	34.7805	35.6500	36.5413	37.4548	38.3912	39.3510
2441	33.1046	33.9322	34.7805	35.6500	36.5413	37.4548	38.3912	39.3510	40.3348
2442	33.9322	34.7805	35.6500	36.5413	37.4548	38.3912	39.3510	40.3348	41.3432
2443	34.7805	35.6500	36.5413	37.4548	38.3912	39.3510	40.3348	41.3432	42.3768
2444	35.6500	36.5413	37.4548	38.3912	39.3510	40.3348	41.3432	42.3768	43.4362
2445	36.5413	37.4548	38.3912	39.3510	40.3348	41.3432	42.3768	43.4362	44.5221
2446	37.4548	38.3912	39.3510	40.3348	41.3432	42.3768	43.4362	44.5221	45.6352

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2433	2,173.64	2,227.98	2,283.68	2,340.78	2,399.30	2,459.28	2,520.76	2,583.78	2,648.37
2434	2,227.98	2,283.68	2,340.78	2,399.30	2,459.28	2,520.76	2,583.78	2,648.37	2,714.58
2435	2,283.68	2,340.78	2,399.30	2,459.28	2,520.76	2,583.78	2,648.37	2,714.58	2,782.44
2436	2,340.78	2,399.30	2,459.28	2,520.76	2,583.78	2,648.37	2,714.58	2,782.44	2,852.00
2437	2,399.30	2,459.28	2,520.76	2,583.78	2,648.37	2,714.58	2,782.44	2,852.00	2,923.30
2438	2,459.28	2,520.76	2,583.78	2,648.37	2,714.58	2,782.44	2,852.00	2,923.30	2,996.38
2439	2,520.76	2,583.78	2,648.37	2,714.58	2,782.44	2,852.00	2,923.30	2,996.38	3,071.30
2440	2,583.78	2,648.37	2,714.58	2,782.44	2,852.00	2,923.30	2,996.38	3,071.30	3,148.08
2441	2,648.37	2,714.58	2,782.44	2,852.00	2,923.30	2,996.38	3,071.30	3,148.08	3,226.78
2442	2,714.58	2,782.44	2,852.00	2,923.30	2,996.38	3,071.30	3,148.08	3,226.78	3,307.46
2443	2,782.44	2,852.00	2,923.30	2,996.38	3,071.30	3,148.08	3,226.78	3,307.46	3,390.14
2444	2,852.00	2,923.30	2,996.38	3,071.30	3,148.08	3,226.78	3,307.46	3,390.14	3,474.90
2445	2,923.30	2,996.38	3,071.30	3,148.08	3,226.78	3,307.46	3,390.14	3,474.90	3,561.77
2446	2,996.38	3,071.30	3,148.08	3,226.78	3,307.46	3,390.14	3,474.90	3,561.77	3,650.82

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2433	4,727.67	4,845.86	4,967.00	5,091.20	5,218.48	5,348.93	5,482.65	5,619.72	5,760.20
2434	4,845.86	4,967.00	5,091.20	5,218.48	5,348.93	5,482.65	5,619.72	5,760.20	5,904.21
2435	4,967.00	5,091.20	5,218.48	5,348.93	5,482.65	5,619.72	5,760.20	5,904.21	6,051.81
2436	5,091.20	5,218.48	5,348.93	5,482.65	5,619.72	5,760.20	5,904.21	6,051.81	6,203.10
2437	5,218.48	5,348.93	5,482.65	5,619.72	5,760.20	5,904.21	6,051.81	6,203.10	6,358.18
2438	5,348.93	5,482.65	5,619.72	5,760.20	5,904.21	6,051.81	6,203.10	6,358.18	6,517.13
2439	5,482.65	5,619.72	5,760.20	5,904.21	6,051.81	6,203.10	6,358.18	6,517.13	6,680.08
2440	5,619.72	5,760.20	5,904.21	6,051.81	6,203.10	6,358.18	6,517.13	6,680.08	6,847.07
2441	5,760.20	5,904.21	6,051.81	6,203.10	6,358.18	6,517.13	6,680.08	6,847.07	7,018.25
2442	5,904.21	6,051.81	6,203.10	6,358.18	6,517.13	6,680.08	6,847.07	7,018.25	7,193.73
2443	6,051.81	6,203.10	6,358.18	6,517.13	6,680.08	6,847.07	7,018.25	7,193.73	7,373.55
2444	6,203.10	6,358.18	6,517.13	6,680.08	6,847.07	7,018.25	7,193.73	7,373.55	7,557.91
2445	6,358.18	6,517.13	6,680.08	6,847.07	7,018.25	7,193.73	7,373.55	7,557.91	7,746.85
2446	6,517.13	6,680.08	6,847.07	7,018.25	7,193.73	7,373.55	7,557.91	7,746.85	7,940.5



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

**SCHEDULE - H**  
**MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
2447	38,3912	39,3510	40,3348	41,3432	42,3768	43,4362	44,5221	45,6352	46,7761
2448	39,3510	40,3348	41,3432	42,3768	43,4362	44,5221	45,6352	46,7761	47,9455
2449	40,3348	41,3432	42,3768	43,4362	44,5221	45,6352	46,7761	47,9455	49,1441
2450	41,3432	42,3768	43,4362	44,5221	45,6352	46,7761	47,9455	49,1441	50,3727
2451	42,3768	43,4362	44,5221	45,6352	46,7761	47,9455	49,1441	50,3727	51,6320
2452	43,4362	44,5221	45,6352	46,7761	47,9455	49,1441	50,3727	51,6320	52,9228
2453	44,5221	45,6352	46,7761	47,9455	49,1441	50,3727	51,6320	52,9228	54,2459
2454	45,6352	46,7761	47,9455	49,1441	50,3727	51,6320	52,9228	54,2459	55,6020
2455	46,7761	47,9455	49,1441	50,3727	51,6320	52,9228	54,2459	55,6020	56,9921
2456	47,9455	49,1441	50,3727	51,6320	52,9228	54,2459	55,6020	56,9921	58,4169
2457	49,1441	50,3727	51,6320	52,9228	54,2459	55,6020	56,9921	58,4169	59,8773
2458	50,3727	51,6320	52,9228	54,2459	55,6020	56,9921	58,4169	59,8773	61,3742
2459	51,6320	52,9228	54,2459	55,6020	56,9921	58,4169	59,8773	61,3742	62,9086
2460	52,9228	54,2459	55,6020	56,9921	58,4169	59,8773	61,3742	62,9086	64,4813

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2447	3,071.30	3,148.08	3,226.78	3,307.46	3,390.14	3,474.90	3,561.77	3,650.82	3,742.09
2448	3,148.08	3,226.78	3,307.46	3,390.14	3,474.90	3,561.77	3,650.82	3,742.09	3,835.64
2449	3,226.78	3,307.46	3,390.14	3,474.90	3,561.77	3,650.82	3,742.09	3,835.64	3,931.53
2450	3,307.46	3,390.14	3,474.90	3,561.77	3,650.82	3,742.09	3,835.64	3,931.53	4,029.82
2451	3,390.14	3,474.90	3,561.77	3,650.82	3,742.09	3,835.64	3,931.53	4,029.82	4,130.56
2452	3,474.90	3,561.77	3,650.82	3,742.09	3,835.64	3,931.53	4,029.82	4,130.56	4,233.82
2453	3,561.77	3,650.82	3,742.09	3,835.64	3,931.53	4,029.82	4,130.56	4,233.82	4,339.67
2454	3,650.82	3,742.09	3,835.64	3,931.53	4,029.82	4,130.56	4,233.82	4,339.67	4,448.16
2455	3,742.09	3,835.64	3,931.53	4,029.82	4,130.56	4,233.82	4,339.67	4,448.16	4,559.37
2456	3,835.64	3,931.53	4,029.82	4,130.56	4,233.82	4,339.67	4,448.16	4,559.37	4,673.35
2457	3,931.53	4,029.82	4,130.56	4,233.82	4,339.67	4,448.16	4,559.37	4,673.35	4,790.18
2458	4,029.82	4,130.56	4,233.82	4,339.67	4,448.16	4,559.37	4,673.35	4,790.18	4,909.94
2459	4,130.56	4,233.82	4,339.67	4,448.16	4,559.37	4,673.35	4,790.18	4,909.94	5,032.69
2460	4,233.82	4,339.67	4,448.16	4,559.37	4,673.35	4,790.18	4,909.94	5,032.69	5,158.50

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2447	6,680.08	6,847.07	7,018.25	7,193.73	7,373.55	7,557.91	7,746.85	7,940.53	8,139.05
2448	6,847.07	7,018.25	7,193.73	7,373.55	7,557.91	7,746.85	7,940.53	8,139.05	8,342.52
2449	7,018.25	7,193.73	7,373.55	7,557.91	7,746.85	7,940.53	8,139.05	8,342.52	8,551.08
2450	7,193.73	7,373.55	7,557.91	7,746.85	7,940.53	8,139.05	8,342.52	8,551.08	8,764.86
2451	7,373.55	7,557.91	7,746.85	7,940.53	8,139.05	8,342.52	8,551.08	8,764.86	8,983.97
2452	7,557.91	7,746.85	7,940.53	8,139.05	8,342.52	8,551.08	8,764.86	8,983.97	9,208.56
2453	7,746.85	7,940.53	8,139.05	8,342.52	8,551.08	8,764.86	8,983.97	9,208.56	9,438.78
2454	7,940.53	8,139.05	8,342.52	8,551.08	8,764.86	8,983.97	9,208.56	9,438.78	9,674.75
2455	8,139.05	8,342.52	8,551.08	8,764.86	8,983.97	9,208.56	9,438.78	9,674.75	9,916.63
2456	8,342.52	8,551.08	8,764.86	8,983.97	9,208.56	9,438.78	9,674.75	9,916.63	10,164.54
2457	8,551.08	8,764.86	8,983.97	9,208.56	9,438.78	9,674.75	9,916.63	10,164.54	10,418.64
2458	8,764.86	8,983.97	9,208.56	9,438.78	9,674.75	9,916.63	10,164.54	10,418.64	10,679.12
2459	8,983.97	9,208.56	9,438.78	9,674.75	9,916.63	10,164.54	10,418.64	10,679.12	10,946.10
2460	9,208.56	9,438.78	9,674.75	9,916.63	10,164.54	10,418.64	10,679.12	10,946.10	11,219.74

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

**SCHEDULE - H**  
**MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
2419	19.9023	20.3999	20.9099	21.4326	21.9684	22.5176	23.0805	23.6575	24.2489
2420	20.3999	20.9099	21.4326	21.9684	22.5176	23.0805	23.6575	24.2489	24.8551
2421	20.9099	21.4326	21.9684	22.5176	23.0805	23.6575	24.2489	24.8551	25.4765
2422	21.4326	21.9684	22.5176	23.0805	23.6575	24.2489	24.8551	25.4765	26.1134
2423	21.9684	22.5176	23.0805	23.6575	24.2489	24.8551	25.4765	26.1134	26.7662
2424	22.5176	23.0805	23.6575	24.2489	24.8551	25.4765	26.1134	26.7662	27.4354
2425	23.0805	23.6575	24.2489	24.8551	25.4765	26.1134	26.7662	27.4354	28.1213
2426	23.6575	24.2489	24.8551	25.4765	26.1134	26.7662	27.4354	28.1213	28.8243
2427	24.2489	24.8551	25.4765	26.1134	26.7662	27.4354	28.1213	28.8243	29.5449
2428	24.8551	25.4765	26.1134	26.7662	27.4354	28.1213	28.8243	29.5449	30.2835
2429	25.4765	26.1134	26.7662	27.4354	28.1213	28.8243	29.5449	30.2835	31.0406
2430	26.1134	26.7662	27.4354	28.1213	28.8243	29.5449	30.2835	31.0406	31.8166
2431	26.7662	27.4354	28.1213	28.8243	29.5449	30.2835	31.0406	31.8166	32.6120
2432	27.4354	28.1213	28.8243	29.5449	30.2835	31.0406	31.8166	32.6120	33.4273

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2419	1,592.18	1,631.99	1,672.79	1,714.61	1,757.47	1,801.41	1,846.44	1,892.60	1,939.91
2420	1,631.99	1,672.79	1,714.61	1,757.47	1,801.41	1,846.44	1,892.60	1,939.91	1,988.41
2421	1,672.79	1,714.61	1,757.47	1,801.41	1,846.44	1,892.60	1,939.91	1,988.41	2,038.12
2422	1,714.61	1,757.47	1,801.41	1,846.44	1,892.60	1,939.91	1,988.41	2,038.12	2,089.07
2423	1,757.47	1,801.41	1,846.44	1,892.60	1,939.91	1,988.41	2,038.12	2,089.07	2,141.30
2424	1,801.41	1,846.44	1,892.60	1,939.91	1,988.41	2,038.12	2,089.07	2,141.30	2,194.83
2425	1,846.44	1,892.60	1,939.91	1,988.41	2,038.12	2,089.07	2,141.30	2,194.83	2,249.70
2426	1,892.60	1,939.91	1,988.41	2,038.12	2,089.07	2,141.30	2,194.83	2,249.70	2,305.94
2427	1,939.91	1,988.41	2,038.12	2,089.07	2,141.30	2,194.83	2,249.70	2,305.94	2,363.59
2428	1,988.41	2,038.12	2,089.07	2,141.30	2,194.83	2,249.70	2,305.94	2,363.59	2,422.68
2429	2,038.12	2,089.07	2,141.30	2,194.83	2,249.70	2,305.94	2,363.59	2,422.68	2,483.25
2430	2,089.07	2,141.30	2,194.83	2,249.70	2,305.94	2,363.59	2,422.68	2,483.25	2,545.33
2431	2,141.30	2,194.83	2,249.70	2,305.94	2,363.59	2,422.68	2,483.25	2,545.33	2,608.96
2432	2,194.83	2,249.70	2,305.94	2,363.59	2,422.68	2,483.25	2,545.33	2,608.96	2,674.18

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2419	3,462.99	3,549.58	3,638.32	3,729.28	3,822.50	3,918.07	4,016.01	4,116.41	4,219.30
2420	3,549.58	3,638.32	3,729.28	3,822.50	3,918.07	4,016.01	4,116.41	4,219.30	4,324.79
2421	3,638.32	3,729.28	3,822.50	3,918.07	4,016.01	4,116.41	4,219.30	4,324.79	4,432.91
2422	3,729.28	3,822.50	3,918.07	4,016.01	4,116.41	4,219.30	4,324.79	4,432.91	4,543.73
2423	3,822.50	3,918.07	4,016.01	4,116.41	4,219.30	4,324.79	4,432.91	4,543.73	4,657.33
2424	3,918.07	4,016.01	4,116.41	4,219.30	4,324.79	4,432.91	4,543.73	4,657.33	4,773.76
2425	4,016.01	4,116.41	4,219.30	4,324.79	4,432.91	4,543.73	4,657.33	4,773.76	4,893.10
2426	4,116.41	4,219.30	4,324.79	4,432.91	4,543.73	4,657.33	4,773.76	4,893.10	5,015.42
2427	4,219.30	4,324.79	4,432.91	4,543.73	4,657.33	4,773.76	4,893.10	5,015.42	5,140.81
2428	4,324.79	4,432.91	4,543.73	4,657.33	4,773.76	4,893.10	5,015.42	5,140.81	5,269.33
2429	4,432.91	4,543.73	4,657.33	4,773.76	4,893.10	5,015.42	5,140.81	5,269.33	5,401.07
2430	4,543.73	4,657.33	4,773.76	4,893.10	5,015.42	5,140.81	5,269.33	5,401.07	5,536.09
2431	4,657.33	4,773.76	4,893.10	5,015.42	5,140.81	5,269.33	5,401.07	5,536.09	5,674.49
2432	4,773.76	4,893.10	5,015.42	5,140.81	5,269.33	5,401.07	5,536.09	5,674.49	5,816.34

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

**SCHEDULE - H**  
**MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED**  
**HOURLY**

3.5

Range	1	2	3	4	5	6	7	8	9
2433	28.1213	28.8243	29.5449	30.2835	31.0406	31.8166	32.6120	33.4273	34.2630
2434	28.8243	29.5449	30.2835	31.0406	31.8166	32.6120	33.4273	34.2630	35.1196
2435	29.5449	30.2835	31.0406	31.8166	32.6120	33.4273	34.2630	35.1196	35.9976
2436	30.2835	31.0406	31.8166	32.6120	33.4273	34.2630	35.1196	35.9976	36.8975
2437	31.0406	31.8166	32.6120	33.4273	34.2630	35.1196	35.9976	36.8975	37.8199
2438	31.8166	32.6120	33.4273	34.2630	35.1196	35.9976	36.8975	37.8199	38.7654
2439	32.6120	33.4273	34.2630	35.1196	35.9976	36.8975	37.8199	38.7654	39.7345
2440	33.4273	34.2630	35.1196	35.9976	36.8975	37.8199	38.7654	39.7345	40.7279
2441	34.2630	35.1196	35.9976	36.8975	37.8199	38.7654	39.7345	40.7279	41.7461
2442	35.1196	35.9976	36.8975	37.8199	38.7654	39.7345	40.7279	41.7461	42.7898
2443	35.9976	36.8975	37.8199	38.7654	39.7345	40.7279	41.7461	42.7898	43.8595
2444	36.8975	37.8199	38.7654	39.7345	40.7279	41.7461	42.7898	43.8595	44.9560
2445	37.8199	38.7654	39.7345	40.7279	41.7461	42.7898	43.8595	44.9560	46.0799
2446	38.7654	39.7345	40.7279	41.7461	42.7898	43.8595	44.9560	46.0799	47.2319

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2433	2,249.70	2,305.94	2,363.59	2,422.68	2,483.25	2,545.33	2,608.96	2,674.18	2,741.04
2434	2,305.94	2,363.59	2,422.68	2,483.25	2,545.33	2,608.96	2,674.18	2,741.04	2,809.57
2435	2,363.59	2,422.68	2,483.25	2,545.33	2,608.96	2,674.18	2,741.04	2,809.57	2,879.81
2436	2,422.68	2,483.25	2,545.33	2,608.96	2,674.18	2,741.04	2,809.57	2,879.81	2,951.80
2437	2,483.25	2,545.33	2,608.96	2,674.18	2,741.04	2,809.57	2,879.81	2,951.80	3,025.59
2438	2,545.33	2,608.96	2,674.18	2,741.04	2,809.57	2,879.81	2,951.80	3,025.59	3,101.17
2439	2,608.96	2,674.18	2,741.04	2,809.57	2,879.81	2,951.80	3,025.59	3,101.23	3,178.76
2440	2,674.18	2,741.04	2,809.57	2,879.81	2,951.80	3,025.59	3,101.23	3,178.76	3,258.23
2441	2,741.04	2,809.57	2,879.81	2,951.80	3,025.59	3,101.23	3,178.76	3,258.23	3,339.69
2442	2,809.57	2,879.81	2,951.80	3,025.59	3,101.23	3,178.76	3,258.23	3,339.69	3,423.18
2443	2,879.81	2,951.80	3,025.59	3,101.23	3,178.76	3,258.23	3,339.69	3,423.18	3,508.76
2444	2,951.80	3,025.59	3,101.23	3,178.76	3,258.23	3,339.69	3,423.18	3,508.76	3,596.48
2445	3,025.59	3,101.23	3,178.76	3,258.23	3,339.69	3,423.18	3,508.76	3,596.48	3,686.39
2446	3,101.23	3,178.76	3,258.23	3,339.69	3,423.18	3,508.76	3,596.48	3,686.39	3,778.55

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2433	4,893.10	5,015.42	5,140.81	5,269.33	5,401.07	5,536.09	5,674.49	5,816.34	5,961.76
2434	5,015.42	5,140.81	5,269.33	5,401.07	5,536.09	5,674.49	5,816.34	5,961.76	6,110.81
2435	5,140.81	5,269.33	5,401.07	5,536.09	5,674.49	5,816.34	5,961.76	6,110.81	6,263.59
2436	5,269.33	5,401.07	5,536.09	5,674.49	5,816.34	5,961.76	6,110.81	6,263.59	6,420.17
2437	5,401.07	5,536.09	5,674.49	5,816.34	5,961.76	6,110.81	6,263.59	6,420.17	6,580.66
2438	5,536.09	5,674.49	5,816.34	5,961.76	6,110.81	6,263.59	6,420.17	6,580.66	6,745.18
2439	5,674.49	5,816.34	5,961.76	6,110.81	6,263.59	6,420.17	6,580.66	6,745.18	6,913.80
2440	5,816.34	5,961.76	6,110.81	6,263.59	6,420.17	6,580.66	6,745.18	6,913.80	7,086.65
2441	5,961.76	6,110.81	6,263.59	6,420.17	6,580.66	6,745.18	6,913.80	7,086.65	7,263.83
2442	6,110.81	6,263.59	6,420.17	6,580.66	6,745.18	6,913.80	7,086.65	7,263.83	7,445.42
2443	6,263.59	6,420.17	6,580.66	6,745.18	6,913.80	7,086.65	7,263.83	7,445.42	7,631.55
2444	6,420.17	6,580.66	6,745.18	6,913.80	7,086.65	7,263.83	7,445.42	7,631.55	7,822.34
2445	6,580.66	6,745.18	6,913.80	7,086.65	7,263.83	7,445.42	7,631.55	7,822.34	8,017.90
2446	6,745.18	6,913.80	7,086.65	7,263.83	7,445.42	7,631.55	7,822.34	8,017.90	8,218.27

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

**SCHEDULE - H**  
**MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
2447	39.7345	40.7279	41.7461	42.7898	43.8595	44.9560	46.0799	47.2319	48.4127
2448	40.7279	41.7461	42.7898	43.8595	44.9560	46.0799	47.2319	48.4127	49.6230
2449	41.7461	42.7898	43.8595	44.9560	46.0799	47.2319	48.4127	49.6230	50.8636
2450	42.7898	43.8595	44.9560	46.0799	47.2319	48.4127	49.6230	50.8636	52.1352
2451	43.8595	44.9560	46.0799	47.2319	48.4127	49.6230	50.8636	52.1352	53.4386
2452	44.9560	46.0799	47.2319	48.4127	49.6230	50.8636	52.1352	53.4386	54.7746
2453	46.0799	47.2319	48.4127	49.6230	50.8636	52.1352	53.4386	54.7746	56.1440
2454	47.2319	48.4127	49.6230	50.8636	52.1352	53.4386	54.7746	56.1440	57.5476
2455	48.4127	49.6230	50.8636	52.1352	53.4386	54.7746	56.1440	57.5476	58.9863
2456	49.6230	50.8636	52.1352	53.4386	54.7746	56.1440	57.5476	58.9863	60.4610
2457	50.8636	52.1352	53.4386	54.7746	56.1440	57.5476	58.9863	60.4610	61.9725
2458	52.1352	53.4386	54.7746	56.1440	57.5476	58.9863	60.4610	61.9725	63.5218
2459	53.4386	54.7746	56.1440	57.5476	58.9863	60.4610	61.9725	63.5218	65.1098
2460	54.7746	56.1440	57.5476	58.9863	60.4610	61.9725	63.5218	65.1098	66.7375

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
2447	3,178.76	3,258.23	3,339.69	3,423.18	3,508.76	3,596.48	3,686.39	3,778.55	3,873.02
2448	3,258.23	3,339.69	3,423.18	3,508.76	3,596.48	3,686.39	3,778.55	3,873.02	3,969.84
2449	3,339.69	3,423.18	3,508.76	3,596.48	3,686.39	3,778.55	3,873.02	3,969.84	4,069.09
2450	3,423.18	3,508.76	3,596.48	3,686.39	3,778.55	3,873.02	3,969.84	4,069.09	4,170.82
2451	3,508.76	3,596.48	3,686.39	3,778.55	3,873.02	3,969.84	4,069.09	4,170.82	4,275.09
2452	3,596.48	3,686.39	3,778.55	3,873.02	3,969.84	4,069.09	4,170.82	4,275.09	4,381.97
2453	3,686.39	3,778.55	3,873.02	3,969.84	4,069.09	4,170.82	4,275.09	4,381.97	4,491.52
2454	3,778.55	3,873.02	3,969.84	4,069.09	4,170.82	4,275.09	4,381.97	4,491.52	4,603.81
2455	3,873.02	3,969.84	4,069.09	4,170.82	4,275.09	4,381.97	4,491.52	4,603.81	4,718.90
2456	3,969.84	4,069.09	4,170.82	4,275.09	4,381.97	4,491.52	4,603.81	4,718.90	4,836.88
2457	4,069.09	4,170.82	4,275.09	4,381.97	4,491.52	4,603.81	4,718.90	4,836.88	4,957.80
2458	4,170.82	4,275.09	4,381.97	4,491.52	4,603.81	4,718.90	4,836.88	4,957.80	5,081.74
2459	4,275.09	4,381.97	4,491.52	4,603.81	4,718.90	4,836.88	4,957.80	5,081.74	5,208.78
2460	4,381.97	4,491.52	4,603.81	4,718.90	4,836.88	4,957.80	5,081.74	5,208.78	5,339.00

**MONTHLY**

	1	2	3	4	5	6	7	8	9
2447	6,913.80	7,086.65	7,263.83	7,445.42	7,631.55	7,822.34	8,017.90	8,218.35	8,423.82
2448	7,086.65	7,263.83	7,445.42	7,631.55	7,822.34	8,017.90	8,218.35	8,423.82	8,634.40
2449	7,263.83	7,445.42	7,631.55	7,822.34	8,017.90	8,218.35	8,423.82	8,634.40	8,850.27
2450	7,445.42	7,631.55	7,822.34	8,017.90	8,218.35	8,423.82	8,634.40	8,850.27	9,071.53
2451	7,631.55	7,822.34	8,017.90	8,218.35	8,423.82	8,634.40	8,850.27	9,071.53	9,298.32
2452	7,822.34	8,017.90	8,218.35	8,423.82	8,634.40	8,850.27	9,071.53	9,298.32	9,530.78
2453	8,017.90	8,218.35	8,423.82	8,634.40	8,850.27	9,071.53	9,298.32	9,530.78	9,769.06
2454	8,218.35	8,423.82	8,634.40	8,850.27	9,071.53	9,298.32	9,530.78	9,769.06	10,013.29
2455	8,423.82	8,634.40	8,850.27	9,071.53	9,298.32	9,530.78	9,769.06	10,013.29	10,263.61
2456	8,634.40	8,850.27	9,071.53	9,298.32	9,530.78	9,769.06	10,013.29	10,263.61	10,520.21
2457	8,850.27	9,071.53	9,298.32	9,530.78	9,769.06	10,013.29	10,263.61	10,520.21	10,783.22
2458	9,071.53	9,298.32	9,530.78	9,769.06	10,013.29	10,263.61	10,520.21	10,783.22	11,052.78
2459	9,298.32	9,530.78	9,769.06	10,013.29	10,263.61	10,520.21	10,783.22	11,052.78	11,329.10
2460	9,530.78	9,769.06	10,013.29	10,263.61	10,520.21	10,783.22	11,052.78	11,329.10	11,612.33

CITY OF MODESTO  
CLASS RANGE TABLE  
FIRE MANAGEMENT CLASSES  
Effective December 27, 2005

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RANGE	TITLE
512	
513	
514	
515	
516	
517	Fire Division Chief
812	Fire Battalion Chief (112 hrs)
1812	Fire Battalion Chief (80 hrs)

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Exhibit "D"

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**Effective December 27, 2005**

SCHEDULE - E  
 MANAGEMENT/CONFIDENTIAL FIRE - 80 hours  
 DIVISION CHIEF

3.5C

Range	1	2	3	4	5	6	7	8	9
<b>HOURLY</b>									
515	40.5834	41.5980	42.6380	43.7040	44.7966	45.9165	47.0644	48.2410	49.4470
516	41.5980	42.6380	43.7040	44.7966	45.9165	47.0644	48.2410	49.4470	50.6832
517	42.6380	43.7040	44.7966	45.9165	47.0644	48.2410	49.4470	50.6832	51.9503
518	43.7040	44.7966	45.9165	47.0644	48.2410	49.4470	50.6832	51.9503	53.2491
519	44.7966	45.9165	47.0644	48.2410	49.4470	50.6832	51.9503	53.2491	54.5803
520	45.9165	47.0644	48.2410	49.4470	50.6832	51.9503	53.2491	54.5803	55.9448
521	47.0644	48.2410	49.4470	50.6832	51.9503	53.2491	54.5803	55.9448	57.3434
522	48.2410	49.4470	50.6832	51.9503	53.2491	54.5803	55.9448	57.3434	58.7770
523	49.4470	50.6832	51.9503	53.2491	54.5803	55.9448	57.3434	58.7770	60.2464
524	50.6832	51.9503	53.2491	54.5803	55.9448	57.3434	58.7770	60.2464	61.7526
525	51.9503	53.2491	54.5803	55.9448	57.3434	58.7770	60.2464	61.7526	63.2964
526	53.2491	54.5803	55.9448	57.3434	58.7770	60.2464	61.7526	63.2964	64.8788
527	54.5803	55.9448	57.3434	58.7770	60.2464	61.7526	63.2964	64.8788	66.5008
528	55.9448	57.3434	58.7770	60.2464	61.7526	63.2964	64.8788	66.5008	68.1633
<b>B-WEEKLY</b>									
	1	2	3	4	5	6	7	8	9
515	3,246.67	3,327.84	3,411.04	3,496.32	3,583.73	3,673.32	3,765.15	3,859.28	3,955.76
516	3,327.84	3,411.04	3,496.32	3,583.73	3,673.32	3,765.15	3,859.28	3,955.76	4,054.66
517	3,411.04	3,496.32	3,583.73	3,673.32	3,765.15	3,859.28	3,955.76	4,054.66	4,156.02
518	3,496.32	3,583.73	3,673.32	3,765.15	3,859.28	3,955.76	4,054.66	4,156.02	4,259.93
519	3,583.73	3,673.32	3,765.15	3,859.28	3,955.76	4,054.66	4,156.02	4,259.93	4,366.4
520	3,673.32	3,765.15	3,859.28	3,955.76	4,054.66	4,156.02	4,259.93	4,366.42	4,475.58
521	3,765.15	3,859.28	3,955.76	4,054.66	4,156.02	4,259.93	4,366.42	4,475.58	4,587.47
522	3,859.28	3,955.76	4,054.66	4,156.02	4,259.93	4,366.42	4,475.58	4,587.47	4,702.16
523	3,955.76	4,054.66	4,156.02	4,259.93	4,366.42	4,475.58	4,587.47	4,702.16	4,819.71
524	4,054.66	4,156.02	4,259.93	4,366.42	4,475.58	4,587.47	4,702.16	4,819.71	4,940.21
525	4,156.02	4,259.93	4,366.42	4,475.58	4,587.47	4,702.16	4,819.71	4,940.21	5,063.71
526	4,259.93	4,366.42	4,475.58	4,587.47	4,702.16	4,819.71	4,940.21	5,063.71	5,190.30
527	4,366.42	4,475.58	4,587.47	4,702.16	4,819.71	4,940.21	5,063.71	5,190.30	5,320.06
528	4,475.58	4,587.47	4,702.16	4,819.71	4,940.21	5,063.71	5,190.30	5,320.06	5,453.06
<b>MONTHLY</b>									
	1	2	3	4	5	6	7	8	9
515	7,061.51	7,238.05	7,419.01	7,604.50	7,794.61	7,989.47	8,189.20	8,393.93	8,603.78
516	7,238.05	7,419.01	7,604.50	7,794.61	7,989.47	8,189.20	8,393.93	8,603.78	8,818.89
517	7,419.01	7,604.50	7,794.61	7,989.47	8,189.20	8,393.93	8,603.78	8,818.89	9,039.34
518	7,604.50	7,794.61	7,989.47	8,189.20	8,393.93	8,603.78	8,818.89	9,039.34	9,265.35
519	7,794.61	7,989.47	8,189.20	8,393.93	8,603.78	8,818.89	9,039.34	9,265.35	9,496.96
520	7,989.47	8,189.20	8,393.93	8,603.78	8,818.89	9,039.34	9,265.35	9,496.96	9,734.39
521	8,189.20	8,393.93	8,603.78	8,818.89	9,039.34	9,265.35	9,496.96	9,734.39	9,977.75
522	8,393.93	8,603.78	8,818.89	9,039.34	9,265.35	9,496.96	9,734.39	9,977.75	10,227.20
523	8,603.78	8,818.89	9,039.34	9,265.35	9,496.96	9,734.39	9,977.75	10,227.20	10,482.87
524	8,818.89	9,039.34	9,265.35	9,496.96	9,734.39	9,977.75	10,227.20	10,482.87	10,744.96
525	9,039.34	9,265.35	9,496.96	9,734.39	9,977.75	10,227.20	10,482.87	10,744.96	11,013.57
526	9,265.35	9,496.96	9,734.39	9,977.75	10,227.20	10,482.87	10,744.96	11,013.57	11,288.90
527	9,496.96	9,734.39	9,977.75	10,227.20	10,482.87	10,744.96	11,013.57	11,288.90	11,571.1
528	9,734.39	9,977.75	10,227.20	10,482.87	10,744.96	11,013.57	11,288.90	11,571.13	11,860.4

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**Effective December 26, 2006**

SCHEDULE - E  
 MANAGEMENT/CONFIDENTIAL FIRE - 80 hours

DIVISION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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**HOURLY**

515	42.0038	43.0539	44.1302	45.2335	46.3643	47.5234	48.7115	49.9293	51.1775
516	43.0539	44.1302	45.2335	46.3643	47.5234	48.7115	49.9293	51.1775	52.4569
517	44.1302	45.2335	46.3643	47.5234	48.7115	49.9293	51.1775	52.4569	53.7683
518	45.2335	46.3643	47.5234	48.7115	49.9293	51.1775	52.4569	53.7683	55.1125
519	46.3643	47.5234	48.7115	49.9293	51.1775	52.4569	53.7683	55.1125	56.4903
520	47.5234	48.7115	49.9293	51.1775	52.4569	53.7683	55.1125	56.4903	57.9026
521	48.7115	49.9293	51.1775	52.4569	53.7683	55.1125	56.4903	57.9026	59.3502
522	49.9293	51.1775	52.4569	53.7683	55.1125	56.4903	57.9026	59.3502	60.8340
523	51.1775	52.4569	53.7683	55.1125	56.4903	57.9026	59.3502	60.8340	62.3549
524	52.4569	53.7683	55.1125	56.4903	57.9026	59.3502	60.8340	62.3549	63.9138
525	53.7683	55.1125	56.4903	57.9026	59.3502	60.8340	62.3549	63.9138	65.5116
526	55.1125	56.4903	57.9026	59.3502	60.8340	62.3549	63.9138	65.5116	67.1494
527	56.4903	57.9026	59.3502	60.8340	62.3549	63.9138	65.5116	67.1494	68.8281
528	57.9026	59.3502	60.8340	62.3549	63.9138	65.5116	67.1494	68.8281	70.5488

**B-WEEKLY**

	1	2	3	4	5	6	7	8	9
515	3,360.30	3,444.31	3,530.42	3,618.68	3,709.14	3,801.87	3,896.92	3,994.34	4,094.20
516	3,444.31	3,530.42	3,618.68	3,709.14	3,801.87	3,896.92	3,994.34	4,094.20	4,196.55
517	3,530.42	3,618.68	3,709.14	3,801.87	3,896.92	3,994.34	4,094.20	4,196.55	4,301.46
518	3,618.68	3,709.14	3,801.87	3,896.92	3,994.34	4,094.20	4,196.55	4,301.46	4,409.00
519	3,709.14	3,801.87	3,896.92	3,994.34	4,094.20	4,196.55	4,301.46	4,409.00	4,519.22
520	3,801.87	3,896.92	3,994.34	4,094.20	4,196.55	4,301.46	4,409.00	4,519.22	4,632.21
521	3,896.92	3,994.34	4,094.20	4,196.55	4,301.46	4,409.00	4,519.22	4,632.21	4,748.02
522	3,994.34	4,094.20	4,196.55	4,301.46	4,409.00	4,519.22	4,632.21	4,748.02	4,866.72
523	4,094.20	4,196.55	4,301.46	4,409.00	4,519.22	4,632.21	4,748.02	4,866.72	4,988.39
524	4,196.55	4,301.46	4,409.00	4,519.22	4,632.21	4,748.02	4,866.72	4,988.39	5,113.10
525	4,301.46	4,409.00	4,519.22	4,632.21	4,748.02	4,866.72	4,988.39	5,113.10	5,240.93
526	4,409.00	4,519.22	4,632.21	4,748.02	4,866.72	4,988.39	5,113.10	5,240.93	5,371.95
527	4,519.22	4,632.21	4,748.02	4,866.72	4,988.39	5,113.10	5,240.93	5,371.95	5,506.25
528	4,632.21	4,748.02	4,866.72	4,988.39	5,113.10	5,240.93	5,371.95	5,506.25	5,643.90

**MONTHLY**

	1	2	3	4	5	6	7	8	9
515	7,308.65	7,491.37	7,678.66	7,870.63	8,067.38	8,269.07	8,475.80	8,687.69	8,904.89
516	7,491.37	7,678.66	7,870.63	8,067.38	8,269.07	8,475.80	8,687.69	8,904.89	9,127.50
517	7,678.66	7,870.63	8,067.38	8,269.07	8,475.80	8,687.69	8,904.89	9,127.50	9,355.68
518	7,870.63	8,067.38	8,269.07	8,475.80	8,687.69	8,904.89	9,127.50	9,355.68	9,589.58
519	8,067.38	8,269.07	8,475.80	8,687.69	8,904.89	9,127.50	9,355.68	9,589.58	9,829.30
520	8,269.07	8,475.80	8,687.69	8,904.89	9,127.50	9,355.68	9,589.58	9,829.30	10,075.06
521	8,475.80	8,687.69	8,904.89	9,127.50	9,355.68	9,589.58	9,829.30	10,075.06	10,326.94
522	8,687.69	8,904.89	9,127.50	9,355.68	9,589.58	9,829.30	10,075.06	10,326.94	10,585.12
523	8,904.89	9,127.50	9,355.68	9,589.58	9,829.30	10,075.06	10,326.94	10,585.12	10,849.75
524	9,127.50	9,355.68	9,589.58	9,829.30	10,075.06	10,326.94	10,585.12	10,849.75	11,120.99
525	9,355.68	9,589.58	9,829.30	10,075.06	10,326.94	10,585.12	10,849.75	11,120.99	11,399.02
526	9,589.58	9,829.30	10,075.06	10,326.94	10,585.12	10,849.75	11,120.99	11,399.02	11,683.99
527	9,829.30	10,075.06	10,326.94	10,585.12	10,849.75	11,120.99	11,399.02	11,683.99	11,976.09
528	10,075.06	10,326.94	10,585.12	10,849.75	11,120.99	11,399.02	11,683.99	11,976.09	12,275.48



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**Effective December 27, 2005**

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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**HOURLY**

1812	38.3202	39.2782	40.2602	41.2667	42.2984	43.3559	44.4398	45.5508	46.6896
1813	39.2782	40.2602	41.2667	42.2984	43.3559	44.4398	45.5508	46.6896	47.8568
1814	40.2602	41.2667	42.2984	43.3559	44.4398	45.5508	46.6896	47.8568	49.0532
1815	41.2667	42.2984	43.3559	44.4398	45.5508	46.6896	47.8568	49.0532	50.2795
1816	42.2984	43.3559	44.4398	45.5508	46.6896	47.8568	49.0532	50.2795	51.5365
1817	43.3559	44.4398	45.5508	46.6896	47.8568	49.0532	50.2795	51.5365	52.8249
1818	44.4398	45.5508	46.6896	47.8568	49.0532	50.2795	51.5365	52.8249	54.1455
1819	45.5508	46.6896	47.8568	49.0532	50.2795	51.5365	52.8249	54.1455	55.4991
1820	46.6896	47.8568	49.0532	50.2795	51.5365	52.8249	54.1455	55.4991	56.8866
1821	47.8568	49.0532	50.2795	51.5365	52.8249	54.1455	55.4991	56.8866	58.3088
1822	49.0532	50.2795	51.5365	52.8249	54.1455	55.4991	56.8866	58.3088	59.7665
1823	50.2795	51.5365	52.8249	54.1455	55.4991	56.8866	58.3088	59.7665	61.2607
1824	51.5365	52.8249	54.1455	55.4991	56.8866	58.3088	59.7665	61.2607	62.7922

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1812	3,065.62	3,142.26	3,220.82	3,301.34	3,383.87	3,468.47	3,555.18	3,644.06	3,735.17
1813	3,142.26	3,220.82	3,301.34	3,383.87	3,468.47	3,555.18	3,644.06	3,735.17	3,828.54
1814	3,220.82	3,301.34	3,383.87	3,468.47	3,555.18	3,644.06	3,735.17	3,828.54	3,924.26
1815	3,301.34	3,383.87	3,468.47	3,555.18	3,644.06	3,735.17	3,828.54	3,924.26	4,022.36
1816	3,383.87	3,468.47	3,555.18	3,644.06	3,735.17	3,828.54	3,924.26	4,022.36	4,122.92
1817	3,468.47	3,555.18	3,644.06	3,735.17	3,828.54	3,924.26	4,022.36	4,122.92	4,225.92
1818	3,555.18	3,644.06	3,735.17	3,828.54	3,924.26	4,022.36	4,122.92	4,225.92	4,331.64
1819	3,644.06	3,735.17	3,828.54	3,924.26	4,022.36	4,122.92	4,225.92	4,331.64	4,439.93
1820	3,735.17	3,828.54	3,924.26	4,022.36	4,122.92	4,225.92	4,331.64	4,439.93	4,550.93
1821	3,828.54	3,924.26	4,022.36	4,122.92	4,225.92	4,331.64	4,439.93	4,550.93	4,664.70
1822	3,924.26	4,022.36	4,122.92	4,225.92	4,331.64	4,439.93	4,550.93	4,664.70	4,781.32
1823	4,022.36	4,122.92	4,225.92	4,331.64	4,439.93	4,550.93	4,664.70	4,781.32	4,900.86
1824	4,122.92	4,225.92	4,331.64	4,439.93	4,550.93	4,664.70	4,781.32	4,900.86	5,023.38

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1812	6,667.72	6,834.42	7,005.28	7,180.41	7,359.92	7,543.92	7,732.52	7,925.83	8,123.99
1813	6,834.42	7,005.28	7,180.41	7,359.92	7,543.92	7,732.52	7,925.83	8,123.99	8,327.07
1814	7,005.28	7,180.41	7,359.92	7,543.92	7,732.52	7,925.83	8,123.99	8,327.07	8,535.27
1815	7,180.41	7,359.92	7,543.92	7,732.52	7,925.83	8,123.99	8,327.07	8,535.27	8,748.63
1816	7,359.92	7,543.92	7,732.52	7,925.83	8,123.99	8,327.07	8,535.27	8,748.63	8,967.35
1817	7,543.92	7,732.52	7,925.83	8,123.99	8,327.07	8,535.27	8,748.63	8,967.35	9,191.53
1818	7,732.52	7,925.83	8,123.99	8,327.07	8,535.27	8,748.63	8,967.35	9,191.53	9,421.32
1819	7,925.83	8,123.99	8,327.07	8,535.27	8,748.63	8,967.35	9,191.53	9,421.32	9,656.85
1820	8,123.99	8,327.07	8,535.27	8,748.63	8,967.35	9,191.53	9,421.32	9,656.85	9,898.27
1821	8,327.07	8,535.27	8,748.63	8,967.35	9,191.53	9,421.32	9,656.85	9,898.27	10,145.72
1822	8,535.27	8,748.63	8,967.35	9,191.53	9,421.32	9,656.85	9,898.27	10,145.72	10,399.37
1823	8,748.63	8,967.35	9,191.53	9,421.32	9,656.85	9,898.27	10,145.72	10,399.37	10,659.37
1824	8,967.35	9,191.53	9,421.32	9,656.85	9,898.27	10,145.72	10,399.37	10,659.37	10,925.85

Exhibit "G"



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**Effective December 26, 2006**

SCHEDULE - X  
 FIRE MANAGEMENT - 80 HRS  
 BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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**HOURLY**

1812	39.6614	40.6529	41.6692	42.7109	43.7787	44.8732	45.9950	47.1449	48.3235
1813	40.6529	41.6692	42.7109	43.7787	44.8732	45.9950	47.1449	48.3235	49.5316
1814	41.6692	42.7109	43.7787	44.8732	45.9950	47.1449	48.3235	49.5316	50.7699
1815	42.7109	43.7787	44.8732	45.9950	47.1449	48.3235	49.5316	50.7699	52.0391
1816	43.7787	44.8732	45.9950	47.1449	48.3235	49.5316	50.7699	52.0391	53.3401
1817	44.8732	45.9950	47.1449	48.3235	49.5316	50.7699	52.0391	53.3401	54.6736
1818	45.9950	47.1449	48.3235	49.5316	50.7699	52.0391	53.3401	54.6736	56.0404
1819	47.1449	48.3235	49.5316	50.7699	52.0391	53.3401	54.6736	56.0404	57.4414
1820	48.3235	49.5316	50.7699	52.0391	53.3401	54.6736	56.0404	57.4414	58.8774
1821	49.5316	50.7699	52.0391	53.3401	54.6736	56.0404	57.4414	58.8774	60.3493
1822	50.7699	52.0391	53.3401	54.6736	56.0404	57.4414	58.8774	60.3493	61.8580
1823	52.0391	53.3401	54.6736	56.0404	57.4414	58.8774	60.3493	61.8580	63.4045
1824	53.3401	54.6736	56.0404	57.4414	58.8774	60.3493	61.8580	63.4045	64.9896

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1812	3,172.91	3,252.23	3,333.54	3,416.87	3,502.30	3,589.86	3,679.60	3,771.59	3,865.88
1813	3,252.23	3,333.54	3,416.87	3,502.30	3,589.86	3,679.60	3,771.59	3,865.88	3,962.53
1814	3,333.54	3,416.87	3,502.30	3,589.86	3,679.60	3,771.59	3,865.88	3,962.53	4,061.59
1815	3,416.87	3,502.30	3,589.86	3,679.60	3,771.59	3,865.88	3,962.53	4,061.59	4,163.13
1816	3,502.30	3,589.86	3,679.60	3,771.59	3,865.88	3,962.53	4,061.59	4,163.13	4,267.21
1817	3,589.86	3,679.60	3,771.59	3,865.88	3,962.53	4,061.59	4,163.13	4,267.21	4,373.89
1818	3,679.60	3,771.59	3,865.88	3,962.53	4,061.59	4,163.13	4,267.21	4,373.89	4,483.23
1819	3,771.59	3,865.88	3,962.53	4,061.59	4,163.13	4,267.21	4,373.89	4,483.23	4,595.31
1820	3,865.88	3,962.53	4,061.59	4,163.13	4,267.21	4,373.89	4,483.23	4,595.31	4,710.19
1821	3,962.53	4,061.59	4,163.13	4,267.21	4,373.89	4,483.23	4,595.31	4,710.19	4,827.94
1822	4,061.59	4,163.13	4,267.21	4,373.89	4,483.23	4,595.31	4,710.19	4,827.94	4,948.64
1823	4,163.13	4,267.21	4,373.89	4,483.23	4,595.31	4,710.19	4,827.94	4,948.64	5,072.36
1824	4,267.21	4,373.89	4,483.23	4,595.31	4,710.19	4,827.94	4,948.64	5,072.36	5,199.17

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1812	6,901.08	7,073.60	7,250.45	7,431.69	7,617.50	7,807.95	8,003.13	8,203.21	8,408.29
1813	7,073.60	7,250.45	7,431.69	7,617.50	7,807.95	8,003.13	8,203.21	8,408.29	8,618.50
1814	7,250.45	7,431.69	7,617.50	7,807.95	8,003.13	8,203.21	8,408.29	8,618.50	8,833.96
1815	7,431.69	7,617.50	7,807.95	8,003.13	8,203.21	8,408.29	8,618.50	8,833.96	9,054.81
1816	7,617.50	7,807.95	8,003.13	8,203.21	8,408.29	8,618.50	8,833.96	9,054.81	9,281.18
1817	7,807.95	8,003.13	8,203.21	8,408.29	8,618.50	8,833.96	9,054.81	9,281.18	9,513.21
1818	8,003.13	8,203.21	8,408.29	8,618.50	8,833.96	9,054.81	9,281.18	9,513.21	9,751.03
1819	8,203.21	8,408.29	8,618.50	8,833.96	9,054.81	9,281.18	9,513.21	9,751.03	9,994.80
1820	8,408.29	8,618.50	8,833.96	9,054.81	9,281.18	9,513.21	9,751.03	9,994.80	10,244.66
1821	8,618.50	8,833.96	9,054.81	9,281.18	9,513.21	9,751.03	9,994.80	10,244.66	10,500.77
1822	8,833.96	9,054.81	9,281.18	9,513.21	9,751.03	9,994.80	10,244.66	10,500.77	10,763.29
1823	9,054.81	9,281.18	9,513.21	9,751.03	9,994.80	10,244.66	10,500.77	10,763.29	11,032.38
1824	9,281.18	9,513.21	9,751.03	9,994.80	10,244.66	10,500.77	10,763.29	11,032.38	11,308.19

Exhibit "H"

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**Effective December 27, 2005**

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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**HOURLY**

812	27.3718	28.0561	28.7575	29.4764	30.2133	30.9686	31.7428	32.5364	33.3498
813	28.0561	28.7575	29.4764	30.2133	30.9686	31.7428	32.5364	33.3498	34.1835
814	28.7575	29.4764	30.2133	30.9686	31.7428	32.5364	33.3498	34.1835	35.0381
815	29.4764	30.2133	30.9686	31.7428	32.5364	33.3498	34.1835	35.0381	35.9141
816	30.2133	30.9686	31.7428	32.5364	33.3498	34.1835	35.0381	35.9141	36.8120
817	30.9686	31.7428	32.5364	33.3498	34.1835	35.0381	35.9141	36.8120	37.7323
818	31.7428	32.5364	33.3498	34.1835	35.0381	35.9141	36.8120	37.7323	38.6756
819	32.5364	33.3498	34.1835	35.0381	35.9141	36.8120	37.7323	38.6756	39.6425
820	33.3498	34.1835	35.0381	35.9141	36.8120	37.7323	38.6756	39.6425	40.6336
821	34.1835	35.0381	35.9141	36.8120	37.7323	38.6756	39.6425	40.6336	41.6494
822	35.0381	35.9141	36.8120	37.7323	38.6756	39.6425	40.6336	41.6494	42.6906
823	35.9141	36.8120	37.7323	38.6756	39.6425	40.6336	41.6494	42.6906	43.7579
824	36.8120	37.7323	38.6756	39.6425	40.6336	41.6494	42.6906	43.7579	44.8518

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
812	3,065.64	3,142.28	3,220.84	3,301.36	3,383.89	3,468.48	3,555.19	3,644.08	3,735.18
813	3,142.28	3,220.84	3,301.36	3,383.89	3,468.48	3,555.19	3,644.08	3,735.18	3,828.55
814	3,220.84	3,301.36	3,383.89	3,468.48	3,555.19	3,644.08	3,735.18	3,828.55	3,924.27
815	3,301.36	3,383.89	3,468.48	3,555.19	3,644.08	3,735.18	3,828.55	3,924.27	4,022.38
816	3,383.89	3,468.48	3,555.19	3,644.08	3,735.18	3,828.55	3,924.27	4,022.38	4,122.94
817	3,468.48	3,555.19	3,644.08	3,735.18	3,828.55	3,924.27	4,022.38	4,122.94	4,226.02
818	3,555.19	3,644.08	3,735.18	3,828.55	3,924.27	4,022.38	4,122.94	4,226.02	4,331.67
819	3,644.08	3,735.18	3,828.55	3,924.27	4,022.38	4,122.94	4,226.02	4,331.67	4,439.96
820	3,735.18	3,828.55	3,924.27	4,022.38	4,122.94	4,226.02	4,331.67	4,439.96	4,550.96
821	3,828.55	3,924.27	4,022.38	4,122.94	4,226.02	4,331.67	4,439.96	4,550.96	4,664.73
822	3,924.27	4,022.38	4,122.94	4,226.02	4,331.67	4,439.96	4,550.96	4,664.73	4,781.35
823	4,022.38	4,122.94	4,226.02	4,331.67	4,439.96	4,550.96	4,664.73	4,781.35	4,900.88
824	4,122.94	4,226.02	4,331.67	4,439.96	4,550.96	4,664.73	4,781.35	4,900.88	5,023.40

**MONTHLY**

	1	2	3	4	5	6	7	8	9
812	6,667.77	6,834.46	7,005.33	7,180.46	7,359.96	7,543.94	7,732.54	7,925.87	8,124.02
813	6,834.46	7,005.33	7,180.46	7,359.96	7,543.94	7,732.54	7,925.87	8,124.02	8,327.10
814	7,005.33	7,180.46	7,359.96	7,543.94	7,732.54	7,925.87	8,124.02	8,327.10	8,535.29
815	7,180.46	7,359.96	7,543.94	7,732.54	7,925.87	8,124.02	8,327.10	8,535.29	8,748.68
816	7,359.96	7,543.94	7,732.54	7,925.87	8,124.02	8,327.10	8,535.29	8,748.68	8,967.39
817	7,543.94	7,732.54	7,925.87	8,124.02	8,327.10	8,535.29	8,748.68	8,967.39	9,191.59
818	7,732.54	7,925.87	8,124.02	8,327.10	8,535.29	8,748.68	8,967.39	9,191.59	9,421.38
819	7,925.87	8,124.02	8,327.10	8,535.29	8,748.68	8,967.39	9,191.59	9,421.38	9,656.91
820	8,124.02	8,327.10	8,535.29	8,748.68	8,967.39	9,191.59	9,421.38	9,656.91	9,898.34
821	8,327.10	8,535.29	8,748.68	8,967.39	9,191.59	9,421.38	9,656.91	9,898.34	10,145.79
822	8,535.29	8,748.68	8,967.39	9,191.59	9,421.38	9,656.91	9,898.34	10,145.79	10,399.44
823	8,748.68	8,967.39	9,191.59	9,421.38	9,656.91	9,898.34	10,145.79	10,399.44	10,659.41
824	8,967.39	9,191.59	9,421.38	9,656.91	9,898.34	10,145.79	10,399.44	10,659.41	10,925.90

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**Effective December 26, 2006**

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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**HOURLY**

812	28.3298	29.0380	29.7640	30.5081	31.2708	32.0526	32.8539	33.6752	34.5171
813	29.0380	29.7640	30.5081	31.2708	32.0526	32.8539	33.6752	34.5171	35.3800
814	29.7640	30.5081	31.2708	32.0526	32.8539	33.6752	34.5171	35.3800	36.2645
815	30.5081	31.2708	32.0526	32.8539	33.6752	34.5171	35.3800	36.2645	37.1711
816	31.2708	32.0526	32.8539	33.6752	34.5171	35.3800	36.2645	37.1711	38.1004
817	32.0526	32.8539	33.6752	34.5171	35.3800	36.2645	37.1711	38.1004	39.0529
818	32.8539	33.6752	34.5171	35.3800	36.2645	37.1711	38.1004	39.0529	40.0292
819	33.6752	34.5171	35.3800	36.2645	37.1711	38.1004	39.0529	40.0292	41.0299
820	34.5171	35.3800	36.2645	37.1711	38.1004	39.0529	40.0292	41.0299	42.0556
821	35.3800	36.2645	37.1711	38.1004	39.0529	40.0292	41.0299	42.0556	43.1070
822	36.2645	37.1711	38.1004	39.0529	40.0292	41.0299	42.0556	43.1070	44.1847
823	37.1711	38.1004	39.0529	40.0292	41.0299	42.0556	43.1070	44.1847	45.2893
824	38.1004	39.0529	40.0292	41.0299	42.0556	43.1070	44.1847	45.2893	46.4215

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
812	3,172.94	3,252.26	3,333.57	3,416.91	3,502.33	3,589.89	3,679.64	3,771.62	3,865.92
813	3,252.26	3,333.57	3,416.91	3,502.33	3,589.89	3,679.64	3,771.62	3,865.92	3,962.56
814	3,333.57	3,416.91	3,502.33	3,589.89	3,679.64	3,771.62	3,865.92	3,962.56	4,061.62
815	3,416.91	3,502.33	3,589.89	3,679.64	3,771.62	3,865.92	3,962.56	4,061.62	4,163.16
816	3,502.33	3,589.89	3,679.64	3,771.62	3,865.92	3,962.56	4,061.62	4,163.16	4,267.24
817	3,589.89	3,679.64	3,771.62	3,865.92	3,962.56	4,061.62	4,163.16	4,267.24	4,373.92
818	3,679.64	3,771.62	3,865.92	3,962.56	4,061.62	4,163.16	4,267.24	4,373.92	4,483.27
819	3,771.62	3,865.92	3,962.56	4,061.62	4,163.16	4,267.24	4,373.92	4,483.27	4,595.35
820	3,865.92	3,962.56	4,061.62	4,163.16	4,267.24	4,373.92	4,483.27	4,595.35	4,710.23
821	3,962.56	4,061.62	4,163.16	4,267.24	4,373.92	4,483.27	4,595.35	4,710.23	4,827.98
822	4,061.62	4,163.16	4,267.24	4,373.92	4,483.27	4,595.35	4,710.23	4,827.98	4,948.69
823	4,163.16	4,267.24	4,373.92	4,483.27	4,595.35	4,710.23	4,827.98	4,948.69	5,072.40
824	4,267.24	4,373.92	4,483.27	4,595.35	4,710.23	4,827.98	4,948.69	5,072.40	5,199.21

**MONTHLY**

	1	2	3	4	5	6	7	8	9
812	6,901.14	7,073.67	7,250.51	7,431.78	7,617.57	7,808.01	8,003.22	8,203.27	8,408.38
813	7,073.67	7,250.51	7,431.78	7,617.57	7,808.01	8,003.22	8,203.27	8,408.38	8,618.57
814	7,250.51	7,431.78	7,617.57	7,808.01	8,003.22	8,203.27	8,408.38	8,618.57	8,834.02
815	7,431.78	7,617.57	7,808.01	8,003.22	8,203.27	8,408.38	8,618.57	8,834.02	9,054.87
816	7,617.57	7,808.01	8,003.22	8,203.27	8,408.38	8,618.57	8,834.02	9,054.87	9,281.25
817	7,808.01	8,003.22	8,203.27	8,408.38	8,618.57	8,834.02	9,054.87	9,281.25	9,513.28
818	8,003.22	8,203.27	8,408.38	8,618.57	8,834.02	9,054.87	9,281.25	9,513.28	9,751.11
819	8,203.27	8,408.38	8,618.57	8,834.02	9,054.87	9,281.25	9,513.28	9,751.11	9,994.89
820	8,408.38	8,618.57	8,834.02	9,054.87	9,281.25	9,513.28	9,751.11	9,994.89	10,244.75
821	8,618.57	8,834.02	9,054.87	9,281.25	9,513.28	9,751.11	9,994.89	10,244.75	10,500.86
822	8,834.02	9,054.87	9,281.25	9,513.28	9,751.11	9,994.89	10,244.75	10,500.86	10,763.40
823	9,054.87	9,281.25	9,513.28	9,751.11	9,994.89	10,244.75	10,500.86	10,763.40	11,032.47
824	9,281.25	9,513.28	9,751.11	9,994.89	10,244.75	10,500.86	10,763.40	11,032.47	11,308.28

Exhibit "J"

CITY OF MODESTO  
CLASS RANGE TABLE  
POLICE MANAGEMENT CLASSES (Unrepresented)  
Effective **December 27, 2005**

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RANGE	TITLE
1612	
1613	
1614	
1615	
1616	
1617	
1618	
1619	
1620	
1622	Police Captain

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**Exhibit "K"**

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

**SCHEDULE - G**  
**MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED**  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
1601	25.5145	26.1524	26.8062	27.4764	28.1633	28.8674	29.5891	30.3288	31.0870
1602	26.1524	26.8062	27.4764	28.1633	28.8674	29.5891	30.3288	31.0870	31.8642
1603	26.8062	27.4764	28.1633	28.8674	29.5891	30.3288	31.0870	31.8642	32.6608
1604	27.4764	28.1633	28.8674	29.5891	30.3288	31.0870	31.8642	32.6608	33.4773
1605	28.1633	28.8674	29.5891	30.3288	31.0870	31.8642	32.6608	33.4773	34.3142
1606	28.8674	29.5891	30.3288	31.0870	31.8642	32.6608	33.4773	34.3142	35.1721
1607	29.5891	30.3288	31.0870	31.8642	32.6608	33.4773	34.3142	35.1721	36.0514
1608	30.3288	31.0870	31.8642	32.6608	33.4773	34.3142	35.1721	36.0514	36.9527
1609	31.0870	31.8642	32.6608	33.4773	34.3142	35.1721	36.0514	36.9527	37.8765
1610	31.8642	32.6608	33.4773	34.3142	35.1721	36.0514	36.9527	37.8765	38.8234
1611	32.6608	33.4773	34.3142	35.1721	36.0514	36.9527	37.8765	38.8234	39.7940
1612	33.4773	34.3142	35.1721	36.0514	36.9527	37.8765	38.8234	39.7940	40.7889
1613	34.3142	35.1721	36.0514	36.9527	37.8765	38.8234	39.7940	40.7889	41.8086
1614	35.1721	36.0514	36.9527	37.8765	38.8234	39.7940	40.7889	41.8086	42.8538

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1601	2,041.16	2,092.19	2,144.50	2,198.11	2,253.06	2,309.39	2,367.13	2,426.30	2,486.96
1602	2,092.19	2,144.50	2,198.11	2,253.06	2,309.39	2,367.13	2,426.30	2,486.96	2,549.14
1603	2,144.50	2,198.11	2,253.06	2,309.39	2,367.13	2,426.30	2,486.96	2,549.14	2,612.86
1604	2,198.11	2,253.06	2,309.39	2,367.13	2,426.30	2,486.96	2,549.14	2,612.86	2,678.18
1605	2,253.06	2,309.39	2,367.13	2,426.30	2,486.96	2,549.14	2,612.86	2,678.18	2,745.14
1606	2,309.39	2,367.13	2,426.30	2,486.96	2,549.14	2,612.86	2,678.18	2,745.14	2,813.77
1607	2,367.13	2,426.30	2,486.96	2,549.14	2,612.86	2,678.18	2,745.14	2,813.77	2,884.11
1608	2,426.30	2,486.96	2,549.14	2,612.86	2,678.18	2,745.14	2,813.77	2,884.11	2,956.22
1609	2,486.96	2,549.14	2,612.86	2,678.18	2,745.14	2,813.77	2,884.11	2,956.22	3,030.12
1610	2,549.14	2,612.86	2,678.18	2,745.14	2,813.77	2,884.11	2,956.22	3,030.12	3,105.87
1611	2,612.86	2,678.18	2,745.14	2,813.77	2,884.11	2,956.22	3,030.12	3,105.87	3,183.52
1612	2,678.18	2,745.14	2,813.77	2,884.11	2,956.22	3,030.12	3,105.87	3,183.52	3,263.11
1613	2,745.14	2,813.77	2,884.11	2,956.22	3,030.12	3,105.87	3,183.52	3,263.11	3,344.69
1614	2,813.77	2,884.11	2,956.22	3,030.12	3,105.87	3,183.52	3,263.11	3,344.69	3,428.30

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1601	4,439.52	4,550.51	4,664.29	4,780.89	4,900.41	5,022.92	5,148.51	5,277.20	5,409.14
1602	4,550.51	4,664.29	4,780.89	4,900.41	5,022.92	5,148.51	5,277.20	5,409.14	5,544.38
1603	4,664.29	4,780.89	4,900.41	5,022.92	5,148.51	5,277.20	5,409.14	5,544.38	5,682.97
1604	4,780.89	4,900.41	5,022.92	5,148.51	5,277.20	5,409.14	5,544.38	5,682.97	5,825.04
1605	4,900.41	5,022.92	5,148.51	5,277.20	5,409.14	5,544.38	5,682.97	5,825.04	5,970.68
1606	5,022.92	5,148.51	5,277.20	5,409.14	5,544.38	5,682.97	5,825.04	5,970.68	6,119.95
1607	5,148.51	5,277.20	5,409.14	5,544.38	5,682.97	5,825.04	5,970.68	6,119.95	6,272.94
1608	5,277.20	5,409.14	5,544.38	5,682.97	5,825.04	5,970.68	6,119.95	6,272.94	6,429.78
1609	5,409.14	5,544.38	5,682.97	5,825.04	5,970.68	6,119.95	6,272.94	6,429.78	6,590.51
1610	5,544.38	5,682.97	5,825.04	5,970.68	6,119.95	6,272.94	6,429.78	6,590.51	6,755.27
1611	5,682.97	5,825.04	5,970.68	6,119.95	6,272.94	6,429.78	6,590.51	6,755.27	6,924.16
1612	5,825.04	5,970.68	6,119.95	6,272.94	6,429.78	6,590.51	6,755.27	6,924.16	7,097.26
1613	5,970.68	6,119.95	6,272.94	6,429.78	6,590.51	6,755.27	6,924.16	7,097.26	7,274.70
1614	6,119.95	6,272.94	6,429.78	6,590.51	6,755.27	6,924.16	7,097.26	7,274.70	7,456.55

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

SCHEDULE - G  
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
1615	36.0514	36.9527	37.8765	38.8234	39.7940	40.7889	41.8086	42.8538	43.9251
1616	36.9527	37.8765	38.8234	39.7940	40.7889	41.8086	42.8538	43.9251	45.0232
1617	37.8765	38.8234	39.7940	40.7889	41.8086	42.8538	43.9251	45.0232	46.1488
1618	38.8234	39.7940	40.7889	41.8086	42.8538	43.9251	45.0232	46.1488	47.3025
1619	39.7940	40.7889	41.8086	42.8538	43.9251	45.0232	46.1488	47.3025	48.4851
1620	40.7889	41.8086	42.8538	43.9251	45.0232	46.1488	47.3025	48.4851	49.6972
1621	41.8086	42.8538	43.9251	45.0232	46.1488	47.3025	48.4851	49.6972	50.9396
1622	42.8538	43.9251	45.0232	46.1488	47.3025	48.4851	49.6972	50.9396	52.2131
1623	43.9251	45.0232	46.1488	47.3025	48.4851	49.6972	50.9396	52.2131	53.5184
1624	45.0232	46.1488	47.3025	48.4851	49.6972	50.9396	52.2131	53.5184	54.8564
1625	46.1488	47.3025	48.4851	49.6972	50.9396	52.2131	53.5184	54.8564	56.2278
1626	47.3025	48.4851	49.6972	50.9396	52.2131	53.5184	54.8564	56.2278	57.6335
1627	48.4851	49.6972	50.9396	52.2131	53.5184	54.8564	56.2278	57.6335	59.0743
1628	49.6972	50.9396	52.2131	53.5184	54.8564	56.2278	57.6335	59.0743	60.5512

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1615	2,884.11	2,956.22	3,030.12	3,105.87	3,183.52	3,263.11	3,344.69	3,428.30	3,514.01
1616	2,956.22	3,030.12	3,105.87	3,183.52	3,263.11	3,344.69	3,428.30	3,514.01	3,601.86
1617	3,030.12	3,105.87	3,183.52	3,263.11	3,344.69	3,428.30	3,514.01	3,601.86	3,691.90
1618	3,105.87	3,183.52	3,263.11	3,344.69	3,428.30	3,514.01	3,601.86	3,691.90	3,784.20
1619	3,183.52	3,263.11	3,344.69	3,428.30	3,514.01	3,601.86	3,691.90	3,784.20	3,878.81
1620	3,263.11	3,344.69	3,428.30	3,514.01	3,601.86	3,691.90	3,784.20	3,878.81	3,975.78
1621	3,344.69	3,428.30	3,514.01	3,601.86	3,691.90	3,784.20	3,878.81	3,975.78	4,075.17
1622	3,428.30	3,514.01	3,601.86	3,691.90	3,784.20	3,878.81	3,975.78	4,075.17	4,177.05
1623	3,514.01	3,601.86	3,691.90	3,784.20	3,878.81	3,975.78	4,075.17	4,177.05	4,281.47
1624	3,601.86	3,691.90	3,784.20	3,878.81	3,975.78	4,075.17	4,177.05	4,281.47	4,388.51
1625	3,691.90	3,784.20	3,878.81	3,975.78	4,075.17	4,177.05	4,281.47	4,388.51	4,498.22
1626	3,784.20	3,878.81	3,975.78	4,075.17	4,177.05	4,281.47	4,388.51	4,498.22	4,610.68
1627	3,878.81	3,975.78	4,075.17	4,177.05	4,281.47	4,388.51	4,498.22	4,610.68	4,725.94
1628	3,975.78	4,075.17	4,177.05	4,281.47	4,388.51	4,498.22	4,610.68	4,725.94	4,844.10

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1615	6,272.94	6,429.78	6,590.51	6,755.27	6,924.16	7,097.26	7,274.70	7,456.55	7,642.97
1616	6,429.78	6,590.51	6,755.27	6,924.16	7,097.26	7,274.70	7,456.55	7,642.97	7,834.05
1617	6,590.51	6,755.27	6,924.16	7,097.26	7,274.70	7,456.55	7,642.97	7,834.05	8,029.88
1618	6,755.27	6,924.16	7,097.26	7,274.70	7,456.55	7,642.97	7,834.05	8,029.88	8,230.64
1619	6,924.16	7,097.26	7,274.70	7,456.55	7,642.97	7,834.05	8,029.88	8,230.64	8,436.41
1620	7,097.26	7,274.70	7,456.55	7,642.97	7,834.05	8,029.88	8,230.64	8,436.41	8,647.32
1621	7,274.70	7,456.55	7,642.97	7,834.05	8,029.88	8,230.64	8,436.41	8,647.32	8,863.49
1622	7,456.55	7,642.97	7,834.05	8,029.88	8,230.64	8,436.41	8,647.32	8,863.49	9,085.08
1623	7,642.97	7,834.05	8,029.88	8,230.64	8,436.41	8,647.32	8,863.49	9,085.08	9,312.20
1624	7,834.05	8,029.88	8,230.64	8,436.41	8,647.32	8,863.49	9,085.08	9,312.20	9,545.01
1625	8,029.88	8,230.64	8,436.41	8,647.32	8,863.49	9,085.08	9,312.20	9,545.01	9,783.63
1626	8,230.64	8,436.41	8,647.32	8,863.49	9,085.08	9,312.20	9,545.01	9,783.63	10,028.23
1627	8,436.41	8,647.32	8,863.49	9,085.08	9,312.20	9,545.01	9,783.63	10,028.23	10,278.92
1628	8,647.32	8,863.49	9,085.08	9,312.20	9,545.01	9,783.63	10,028.23	10,278.92	10,535.92

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

**SCHEDULE - G**  
**MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED**  
**HOURLY**

3.50<sup>00</sup>

Range	1	2	3	4	5	6	7	8	9
1601	26.4075	27.0677	27.7444	28.4380	29.1490	29.8777	30.6246	31.3902	32.1750
1602	27.0677	27.7444	28.4380	29.1490	29.8777	30.6246	31.3902	32.1750	32.9794
1603	27.7444	28.4380	29.1490	29.8777	30.6246	31.3902	32.1750	32.9794	33.8039
1604	28.4380	29.1490	29.8777	30.6246	31.3902	32.1750	32.9794	33.8039	34.6490
1605	29.1490	29.8777	30.6246	31.3902	32.1750	32.9794	33.8039	34.6490	35.5152
1606	29.8777	30.6246	31.3902	32.1750	32.9794	33.8039	34.6490	35.5152	36.4031
1607	30.6246	31.3902	32.1750	32.9794	33.8039	34.6490	35.5152	36.4031	37.3132
1608	31.3902	32.1750	32.9794	33.8039	34.6490	35.5152	36.4031	37.3132	38.2460
1609	32.1750	32.9794	33.8039	34.6490	35.5152	36.4031	37.3132	38.2460	39.2022
1610	32.9794	33.8039	34.6490	35.5152	36.4031	37.3132	38.2460	39.2022	40.1823
1611	33.8039	34.6490	35.5152	36.4031	37.3132	38.2460	39.2022	40.1823	41.1869
1612	34.6490	35.5152	36.4031	37.3132	38.2460	39.2022	40.1823	41.1869	42.2166
1613	35.5152	36.4031	37.3132	38.2460	39.2022	40.1823	41.1869	42.2166	43.2720
1614	36.4031	37.3132	38.2460	39.2022	40.1823	41.1869	42.2166	43.2720	44.3538

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1601	2,112.60	2,165.42	2,219.55	2,275.04	2,331.92	2,390.22	2,449.97	2,511.22	2,574.00
1602	2,165.42	2,219.55	2,275.04	2,331.92	2,390.22	2,449.97	2,511.22	2,574.00	2,638.35
1603	2,219.55	2,275.04	2,331.92	2,390.22	2,449.97	2,511.22	2,574.00	2,638.35	2,704.31
1604	2,275.04	2,331.92	2,390.22	2,449.97	2,511.22	2,574.00	2,638.35	2,704.31	2,771.92
1605	2,331.92	2,390.22	2,449.97	2,511.22	2,574.00	2,638.35	2,704.31	2,771.92	2,841.22
1606	2,390.22	2,449.97	2,511.22	2,574.00	2,638.35	2,704.31	2,771.92	2,841.22	2,912.25
1607	2,449.97	2,511.22	2,574.00	2,638.35	2,704.31	2,771.92	2,841.22	2,912.25	2,985.06
1608	2,511.22	2,574.00	2,638.35	2,704.31	2,771.92	2,841.22	2,912.25	2,985.06	3,059.68
1609	2,574.00	2,638.35	2,704.31	2,771.92	2,841.22	2,912.25	2,985.06	3,059.68	3,136.18
1610	2,638.35	2,704.31	2,771.92	2,841.22	2,912.25	2,985.06	3,059.68	3,136.18	3,214.58
1611	2,704.31	2,771.92	2,841.22	2,912.25	2,985.06	3,059.68	3,136.18	3,214.58	3,294.95
1612	2,771.92	2,841.22	2,912.25	2,985.06	3,059.68	3,136.18	3,214.58	3,294.95	3,377.33
1613	2,841.22	2,912.25	2,985.06	3,059.68	3,136.18	3,214.58	3,294.95	3,377.33	3,461.76
1614	2,912.25	2,985.06	3,059.68	3,136.18	3,214.58	3,294.95	3,377.33	3,461.76	3,548.30

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1601	4,594.91	4,709.79	4,827.52	4,948.21	5,071.93	5,198.73	5,328.68	5,461.90	5,598.45
1602	4,709.79	4,827.52	4,948.21	5,071.93	5,198.73	5,328.68	5,461.90	5,598.45	5,738.41
1603	4,827.52	4,948.21	5,071.93	5,198.73	5,328.68	5,461.90	5,598.45	5,738.41	5,881.87
1604	4,948.21	5,071.93	5,198.73	5,328.68	5,461.90	5,598.45	5,738.41	5,881.87	6,028.93
1605	5,071.93	5,198.73	5,328.68	5,461.90	5,598.45	5,738.41	5,881.87	6,028.93	6,179.65
1606	5,198.73	5,328.68	5,461.90	5,598.45	5,738.41	5,881.87	6,028.93	6,179.65	6,334.14
1607	5,328.68	5,461.90	5,598.45	5,738.41	5,881.87	6,028.93	6,179.65	6,334.14	6,492.51
1608	5,461.90	5,598.45	5,738.41	5,881.87	6,028.93	6,179.65	6,334.14	6,492.51	6,654.80
1609	5,598.45	5,738.41	5,881.87	6,028.93	6,179.65	6,334.14	6,492.51	6,654.80	6,821.19
1610	5,738.41	5,881.87	6,028.93	6,179.65	6,334.14	6,492.51	6,654.80	6,821.19	6,991.71
1611	5,881.87	6,028.93	6,179.65	6,334.14	6,492.51	6,654.80	6,821.19	6,991.71	7,166.52
1612	6,028.93	6,179.65	6,334.14	6,492.51	6,654.80	6,821.19	6,991.71	7,166.52	7,345.69
1613	6,179.65	6,334.14	6,492.51	6,654.80	6,821.19	6,991.71	7,166.52	7,345.69	7,529.33
1614	6,334.14	6,492.51	6,654.80	6,821.19	6,991.71	7,166.52	7,345.69	7,529.33	7,717.55



**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

SCHEDULE - G  
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED  
**HOURLY**

3.50%

Range	1	2	3	4	5	6	7	8	9
1615	37.3132	38.2460	39.2022	40.1823	41.1869	42.2166	43.2720	44.3538	45.4626
1616	38.2460	39.2022	40.1823	41.1869	42.2166	43.2720	44.3538	45.4626	46.5992
1617	39.2022	40.1823	41.1869	42.2166	43.2720	44.3538	45.4626	46.5992	47.7642
1618	40.1823	41.1869	42.2166	43.2720	44.3538	45.4626	46.5992	47.7642	48.9583
1619	41.1869	42.2166	43.2720	44.3538	45.4626	46.5992	47.7642	48.9583	50.1823
1620	42.2166	43.2720	44.3538	45.4626	46.5992	47.7642	48.9583	50.1823	51.4369
1621	43.2720	44.3538	45.4626	46.5992	47.7642	48.9583	50.1823	51.4369	52.7228
1622	44.3538	45.4626	46.5992	47.7642	48.9583	50.1823	51.4369	52.7228	54.0409
1623	45.4626	46.5992	47.7642	48.9583	50.1823	51.4369	52.7228	54.0409	55.3919
1624	46.5992	47.7642	48.9583	50.1823	51.4369	52.7228	54.0409	55.3919	56.7767
1625	47.7642	48.9583	50.1823	51.4369	52.7228	54.0409	55.3919	56.7767	58.1961
1626	48.9583	50.1823	51.4369	52.7228	54.0409	55.3919	56.7767	58.1961	59.6510
1627	50.1823	51.4369	52.7228	54.0409	55.3919	56.7767	58.1961	59.6510	61.1423
1628	51.4369	52.7228	54.0409	55.3919	56.7767	58.1961	59.6510	61.1423	62.6709

**BIWEEKLY**

	1	2	3	4	5	6	7	8	9
1615	2,985.06	3,059.68	3,136.18	3,214.58	3,294.95	3,377.33	3,461.76	3,548.30	3,637.01
1616	3,059.68	3,136.18	3,214.58	3,294.95	3,377.33	3,461.76	3,548.30	3,637.01	3,727.94
1617	3,136.18	3,214.58	3,294.95	3,377.33	3,461.76	3,548.30	3,637.01	3,727.94	3,821.14
1618	3,214.58	3,294.95	3,377.33	3,461.76	3,548.30	3,637.01	3,727.94	3,821.14	3,916.66
1619	3,294.95	3,377.33	3,461.76	3,548.30	3,637.01	3,727.94	3,821.14	3,916.66	4,014.58
1620	3,377.33	3,461.76	3,548.30	3,637.01	3,727.94	3,821.14	3,916.66	4,014.58	4,114.95
1621	3,461.76	3,548.30	3,637.01	3,727.94	3,821.14	3,916.66	4,014.58	4,114.95	4,217.82
1622	3,548.30	3,637.01	3,727.94	3,821.14	3,916.66	4,014.58	4,114.95	4,217.82	4,323.27
1623	3,637.01	3,727.94	3,821.14	3,916.66	4,014.58	4,114.95	4,217.82	4,323.27	4,431.35
1624	3,727.94	3,821.14	3,916.66	4,014.58	4,114.95	4,217.82	4,323.27	4,431.35	4,542.14
1625	3,821.14	3,916.66	4,014.58	4,114.95	4,217.82	4,323.27	4,431.35	4,542.14	4,655.69
1626	3,916.66	4,014.58	4,114.95	4,217.82	4,323.27	4,431.35	4,542.14	4,655.69	4,772.08
1627	4,014.58	4,114.95	4,217.82	4,323.27	4,431.35	4,542.14	4,655.69	4,772.08	4,891.38
1628	4,114.95	4,217.82	4,323.27	4,431.35	4,542.14	4,655.69	4,772.08	4,891.38	5,013.67

**MONTHLY**

	1	2	3	4	5	6	7	8	9
1615	6,492.51	6,654.80	6,821.19	6,991.71	7,166.52	7,345.69	7,529.33	7,717.55	7,910.50
1616	6,654.80	6,821.19	6,991.71	7,166.52	7,345.69	7,529.33	7,717.55	7,910.50	8,108.27
1617	6,821.19	6,991.71	7,166.52	7,345.69	7,529.33	7,717.55	7,910.50	8,108.27	8,310.98
1618	6,991.71	7,166.52	7,345.69	7,529.33	7,717.55	7,910.50	8,108.27	8,310.98	8,518.74
1619	7,166.52	7,345.69	7,529.33	7,717.55	7,910.50	8,108.27	8,310.98	8,518.74	8,731.71
1620	7,345.69	7,529.33	7,717.55	7,910.50	8,108.27	8,310.98	8,518.74	8,731.71	8,950.02
1621	7,529.33	7,717.55	7,910.50	8,108.27	8,310.98	8,518.74	8,731.71	8,950.02	9,173.76
1622	7,717.55	7,910.50	8,108.27	8,310.98	8,518.74	8,731.71	8,950.02	9,173.76	9,403.11
1623	7,910.50	8,108.27	8,310.98	8,518.74	8,731.71	8,950.02	9,173.76	9,403.11	9,638.19
1624	8,108.27	8,310.98	8,518.74	8,731.71	8,950.02	9,173.76	9,403.11	9,638.19	9,879.15
1625	8,310.98	8,518.74	8,731.71	8,950.02	9,173.76	9,403.11	9,638.19	9,879.15	10,126.13
1626	8,518.74	8,731.71	8,950.02	9,173.76	9,403.11	9,638.19	9,879.15	10,126.13	10,379.27
1627	8,731.71	8,950.02	9,173.76	9,403.11	9,638.19	9,879.15	10,126.13	10,379.27	10,638.75
1628	8,950.02	9,173.76	9,403.11	9,638.19	9,879.15	10,126.13	10,379.27	10,638.75	10,904.73



CITY OF MODESTO  
CLASS RANGE TABLE  
EXECUTIVE MANAGEMENT  
Effective December 27, 2005

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RANGE	TITLE
1410	City Clerk/Auditor
1411 – 1416	
1417	Emergency Dispatch Director
1418 - 1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423	
1424	
1425	
1426	
1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429 – 1432	
1433	City Manager

**Exhibit "N"**

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 05-06**  
**EFFECTIVE December 27, 2005**

Executive Management			3.50%			
HOURLY			Bi-weekly		Monthly	
1405	33.7860	42.2325	2,702.88	3,378.60	5,878.76	7,348.46
1406	34.6307	43.2884	2,770.46	3,463.07	6,025.75	7,532.18
1407	35.4965	44.3706	2,839.72	3,549.65	6,176.39	7,720.49
1408	36.3839	45.4799	2,910.71	3,638.39	6,330.79	7,913.50
1409	37.2935	46.6169	2,983.48	3,729.35	6,489.07	8,111.34
1410	38.2258	47.7823	3,058.06	3,822.58	6,651.28	8,314.11
1411	39.1814	48.9768	3,134.51	3,918.14	6,817.56	8,521.95
1412	40.1609	50.2011	3,212.87	4,016.09	6,987.99	8,735.00
1413	41.1649	51.4561	3,293.19	4,116.49	7,162.69	8,953.37
1414	42.1940	52.7425	3,375.52	4,219.40	7,341.76	9,177.20
1415	43.2489	54.0611	3,459.91	4,324.89	7,525.30	9,406.64
1416	44.3301	55.4126	3,546.41	4,433.01	7,713.44	9,641.80
1417	45.4384	56.7980	3,635.07	4,543.84	7,906.28	9,882.85
1418	46.5744	58.2180	3,725.95	4,657.44	8,103.94	10,129.93
1419	47.7388	59.6735	3,819.10	4,773.88	8,306.54	10,383.19
1420	48.9323	61.1654	3,914.58	4,893.23	8,514.21	10,642.78
1421	50.1556	62.6945	4,012.45	5,015.56	8,727.08	10,908.84
1422	51.4095	64.2619	4,112.76	5,140.95	8,945.25	11,181.57
1423	52.6947	65.8684	4,215.58	5,269.47	9,168.89	11,461.10
1424	54.0121	67.5151	4,320.97	5,401.21	9,398.11	11,747.63
1425	55.3624	69.2030	4,428.99	5,536.24	9,633.05	12,041.32
1426	56.7465	70.9331	4,539.72	5,674.65	9,873.89	12,342.36
1427	58.1652	72.7065	4,653.22	5,816.52	10,120.75	12,650.93
1428	59.6193	74.5241	4,769.54	5,961.93	10,373.75	12,967.20
1429	61.1098	76.3873	4,888.78	6,110.98	10,633.10	13,291.38
1430	62.6375	78.2969	5,011.00	6,263.75	10,898.93	13,623.66
1431	64.2034	80.2543	5,136.27	6,420.34	11,171.39	13,964.24
1432	65.8085	82.2606	5,264.68	6,580.85	11,450.68	14,313.35
1433	67.4537	84.3171	5,396.30	6,745.37	11,736.95	14,671.18
1434	69.1400	86.4250	5,531.20	6,914.00	12,030.36	15,037.95
1435	70.8685	88.5856	5,669.48	7,086.85	12,331.12	15,413.90

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 06-07**  
**EFFECTIVE December 26, 2006**

Executive Management			3.50%			
HOURLY			Bi-weekly		Monthly	
1405	34.9685	43.7106	2,797.48	3,496.85	6,084.52	7,605.65
1406	35.8427	44.8034	2,867.42	3,584.27	6,236.64	7,795.79
1407	36.7388	45.9235	2,939.10	3,673.88	6,392.54	7,990.69
1408	37.6573	47.0716	3,012.58	3,765.73	6,552.36	8,190.46
1409	38.5987	48.2484	3,087.90	3,859.87	6,716.18	8,395.22
1410	39.5637	49.4546	3,165.10	3,956.37	6,884.09	8,605.10
1411	40.5528	50.6910	3,244.22	4,055.28	7,056.18	8,820.23
1412	41.5666	51.9583	3,325.33	4,156.66	7,232.59	9,040.74
1413	42.6058	53.2573	3,408.46	4,260.58	7,413.40	9,266.76
1414	43.6709	54.5886	3,493.67	4,367.09	7,598.73	9,498.42
1415	44.7627	55.9534	3,581.02	4,476.27	7,788.72	9,735.89
1416	45.8818	57.3523	3,670.54	4,588.18	7,983.42	9,979.29
1417	47.0288	58.7860	3,762.30	4,702.88	8,183.00	10,228.76
1418	48.2045	60.2556	3,856.36	4,820.45	8,387.58	10,484.48
1419	49.4096	61.7620	3,952.77	4,940.96	8,597.27	10,746.59
1420	50.6448	63.3060	4,051.58	5,064.48	8,812.19	11,015.24
1421	51.9109	64.8886	4,152.87	5,191.09	9,032.49	11,290.62
1422	53.2087	66.5109	4,256.70	5,320.87	9,258.32	11,572.89
1423	54.5389	68.1736	4,363.11	5,453.89	9,489.76	11,862.21
1424	55.9024	69.8780	4,472.19	5,590.24	9,727.01	12,158.77
1425	57.3000	71.6250	4,584.00	5,730.00	9,970.20	12,462.75
1426	58.7325	73.4156	4,698.60	5,873.25	10,219.46	12,774.32
1427	60.2008	75.2510	4,816.06	6,020.08	10,474.93	13,093.67
1428	61.7058	77.1323	4,936.46	6,170.58	10,736.80	13,421.01
1429	63.2484	79.0605	5,059.87	6,324.84	11,005.22	13,756.53
1430	64.8296	81.0370	5,186.37	6,482.96	11,280.35	14,100.44
1431	66.4503	83.0629	5,316.02	6,645.03	11,562.34	14,452.94
1432	68.1116	85.1395	5,448.93	6,811.16	11,851.42	14,814.27
1433	69.8144	87.2680	5,585.15	6,981.44	12,147.70	15,184.63
1434	71.5598	89.4498	5,724.78	7,155.98	12,451.40	15,564.26
1435	73.3488	91.6860	5,867.90	7,334.88	12,762.68	15,953.36

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-603**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-331 WHICH ESTABLISHED THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES EFFECTIVE JUNE 24, 2003, TO AMEND SAID CLASS RANGE TABLE EFFECTIVE DECEMBER 27, 2005, AND AMENDING THE CLASS RANGE TABLES FOR UNREPRESENTED POLICE MANAGEMENT, UNREPRESENTED FIRE MANAGEMENT, AND EXECUTIVES, INCLUDING CHARTER OFFICERS EFFECTIVE DECEMBER 27, 2005**

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2003-331. Exhibit "A" entitled "City of Modesto, Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective June 24, 2003," attached to Resolution No. 2003-331, 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 December 27, 2005," which is attached hereto and made a part hereof as though set forth in full herein.

SECTION 2. AMEND CLASS RANGE TABLES FOR UNREPRESENTED POLICE MANAGEMENT, UNREPRESENTED FIRE MANAGEMENT AND EXECUTIVES, INCLUDING CHARTER OFFICERS. The Class Range Tables for Unrepresented Police Management, Unrepresented Fire Management and Executives, including Charter Officers adopted by Resolution No. 2003-330, and rescinded by Resolution No. 2005-602 on December 6, 2005, are hereby adopted as amended effective December 27, 2005. Said Class Range Tables are attached hereto and made a part hereof as though set forth herein as follows:

- Exhibit "B" entitled "City of Modesto, Class Range Table, Fire Management Classes, Modesto, Effective December 27, 2005"
- Exhibit "C" entitled "City of Modesto, Class Range Table, Executive Management, Effective December 27, 2005"
- Exhibit "D" entitled "City of Modesto, Class Range Table, Police Management Classes (Unrepresented), Effective December 27, 2005"

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after December 27, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005, 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, O'Bryant, Mayor Ridenour  
 NOES: Councilmembers: Keating  
 ABSENT: Councilmembers: Jackman, Marsh

Attest: Jean Zahr  
 JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: [Signature]  
 MICHAEL D. MILICH, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective December 27, 2005

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RANGE	TITLE
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2419

2420 Executive Secretary – Personnel and City Manager’s Offices

2421

2422

2423

2424

2425 Executive Assistant  
Paralegal

2426

2427

2428 Accountant II- in City Clerk’s office (Unrepresented)

2429

2430

2431 Equal Opportunity Officer

2432

2433

2434

2435

2436

2437 Deputy City Attorney I

2438

**Exhibit "A"**

RANGE      TITLE

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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

**Exhibit "A"**

CITY OF MODESTO  
CLASS RANGE TABLE  
FIRE MANAGEMENT CLASSES  
Effective December 27, 2005

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RANGE	TITLE
512	
513	
514	
515	
516	
517	Fire Division Chief
812	Fire Battalion Chief (112 hrs)
1812	Fire Battalion Chief (80 hrs)

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**Exhibit "B"**



CITY OF MODESTO  
CLASS RANGE TABLE  
EXECUTIVE MANAGEMENT  
Effective **December 27, 2005**

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RANGE	TITLE
1410	City Clerk/Auditor
1411 – 1416	
1417	Emergency Dispatch Director
1418 - 1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423	
1424	
1425	
1426	
1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429 – 1432	
1433	City Manager

**Exhibit "C"**

CITY OF MODESTO  
CLASS RANGE TABLE  
POLICE MANAGEMENT CLASSES (Unrepresented)  
Effective December 27, 2005

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RANGE	TITLE
1612	
1613	
1614	
1615	
1616	
1617	
1618	
1619	
1620	
1622	Police Captain

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Exhibit "D"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-604**

**A RESOLUTION AMENDING THE CITY CONTRIBUTION AND THE  
MANDATORY EMPLOYEE CONTRIBUTION FOR ALL MONEY PURCHASE  
PLAN PARTICIPANTS EFFECTIVE JANUARY 1, 2006 AND AUTHORIZING  
THE RISK MANAGER TO COORDINATE REQUIRED AMENDMENTS TO  
THE VARIOUS MONEY PURCHASE PLAN DOCUMENTS**

WHEREAS, by Resolution No. 2000-274 which became effective June 6, 2000, the City Council authorized the establishment of a Money Purchase Plan for the benefit of the City Manager. On June 11, 2002, by Council Resolution No. 2002-307, the City Council authorized the establishment of additional plans to cover Fire Battalion Chiefs, Fire Division Chiefs, Police Captains, Executives and all Charter Officers. On November 26, 2002 by Council Resolution No. 2002-576, the City Council authorized the inclusion of unrepresented non-sworn Management and Confidential employees in the Money Purchase Plan, and

WHEREAS, Council Resolution No. 2002-307 established the City-paid contribution level for each category and Resolution Nos. 2002-573, 2002-574 and 2002-575 established three distinct plans to recognize each level of contribution, and

WHEREAS, Resolution No. 2002-576 established the mandatory employee contribution for each plan, requiring that employees in each plan contribute an amount equal to the City-paid contribution, said contributions being 4% for Charter Officers, 2% for Executives (other than Charter Officers), and 1% for unrepresented Management and Confidential employees (including Fire Battalion Chiefs, Fire Division Chiefs and Police Captains, as well as other non-sworn classifications), effective January 1, 2003, and

WHEREAS, Council desires to increase both the City-paid contribution and the mandatory employee contribution by 1% for each plan, effective January 1, 2006.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2002-576 pertaining to three distinct Money Purchase Plans is hereby amended to provide the following City-paid contributions and equal mandatory employee contributions, effective January 1, 2006: Plan Account No. 107645 for Charter Officers 5%, Plan Account No. 108063 for Executives (other than Charter Officers) 3%, Plan Account No. 108215 for other Unrepresented Management and Confidential employees (both sworn and non-sworn) 2%.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to coordinate required amendments to the various Money Purchase Plan Documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005, 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, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Jackman, Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-605**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET TO TRANSFER \$124,000 FROM 0100-800-8000-8003, GENERAL  
FUND RESERVE, AND \$19,300 FROM OTHER FUND RESERVES, TO  
VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR  
SALARY AND BENEFIT CHANGES FOR UNREPRESENTED MANAGEMENT  
AND CONFIDENTIAL EMPLOYEES**

WHEREAS, by Resolution No. 2005-308, the City Council previously authorized an amendment to the Fiscal Year 2005-06 Operating Budget to transfer \$17,500 from the General Fund Reserve and \$8,500 from other Fund reserves to various health benefit accounts. This funding was for Unrepresented Management and Confidential employees' health benefit changes, including Charter Officers and Executives, and

WHEREAS, the City Council desires to make additional salary and benefit changes for unrepresented Management and Confidential employees, including Charter Officers and Executives, and

WHEREAS, the FY 05-06 costs associated with these increases are estimated at \$178,000, effective December 6, 2005, and

WHEREAS, \$143,300 of these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Operating Budget is hereby amended to transfer \$124,000 from 0100-800-8000-8003, the General Fund Reserve, and \$19,300 from other Fund reserves to various salary and benefit accounts, to fund said salary and benefit changes for unrepresented Management and Confidential employees, including Charter officers and Executives.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December 2005, 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, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Jackman, Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-606**

**A RESOLUTION APPOINTING TONYA HALVORSON TO THE  
BOARD OF DIRECTORS OF THE DOWNTOWN IMPROVEMENT  
DISTRICT ADVISORY BOARD**

WHEREAS, there currently is one vacancy on the Board of Directors of the Downtown Improvement District Advisory Board.

WHEREAS, the Board of Directors voted to recommend to the Modesto City Council that Tonya Halvorson be appointed to fill the existing vacancy.

WHEREAS, the Downtown Improvement District was formed under the Modesto Municipal Code, Chapter 3, Business Improvement Area A.

WHEREAS, under the guidelines, the Downtown Improvement District sends applications to business owners within the Downtown Improvement District boundaries and after verifying applicants meet the necessary qualifications, makes a recommendation to the Mayor and Council.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Modesto City Council accepts the recommendation of the Downtown Improvement District Advisory Board and appoints Tonya Halvorson to the Downtown Improvement District Advisory Board.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-607**

**A RESOLUTION APPROVING AN EXCEPTION TO CITY OF  
MODESTO DOWNTOWN SIDEWALK STANDARDS FOR THE STATE  
THEATER PROJECT ON J STREET**

WHEREAS, on December 6, 2005, City staff noticed that a travel lane on J Street by the State Theater had been closed with inadequate traffic control, which created an unsafe situation. Therefore, staff stopped their work, and

WHEREAS, Mr. Ted Grandvold, the architect for the State Theater project, contacted the Downtown Improvement District and got approval on the specific design for the sidewalk, and

WHEREAS, this information was then relayed to the City Manager, and in the interest of public safety, because the sidewalk was already ground down, the City Manager approved the modified design in concept and allowed the contractor to proceed with the work, and

WHEREAS, Section 3.07(C) of the adopted Downtown Sidewalk Standards require:

“Any proposed changes to this pattern or substitution of materials shall be considered on a case-by-case basis. The Downtown Improvement District Board of Directors (DID) will provide the initial review and recommendation to the City Council. The City Engineer will also make a recommendation for DID and City Council consideration. The City Council will then approve or deny the proposed change with appropriate modifications.”

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an exception to City of Modesto Downtown Sidewalk Standard Section 3.07(C), Sidewalks, Curbs, and Gutters.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-608**

**A RESOLUTION AUTHORIZING THE SELECTION OF 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, in March 2005, staff interviewed five firms and selected Harris and Associates and Muni Financial for a term of three to five years, and

WHEREAS, Harris and Associates and Muni Financial both demonstrated their ability to prepare Facilities Master Plans and Infrastructure Finance Plans within the existing framework of the City's organization, and

WHEREAS, the Economic Development Committee met on July 11, 2005, and supported the recommendation to retain these two firms on an on-call basis, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to retain Harris and Associates and Muni

Financial for consultant services for Facilities Master Plans and Infrastructure Finance Plans.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-609**

**A RESOLUTION APPROVING A LICENSE AGREEMENT EXTENSION  
BETWEEN THE CITY OF MODESTO AND THE MODESTO NUTS  
PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT EXTENSION**

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, 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, it is the desire of the City to extend the license agreement with the Modesto Nuts Professional Baseball Club for one year commencing on January 1, 2006, and terminating on December 31, 2006, and

WHEREAS, at its December 5, 2005 meeting, the Safety and Communities Committee recommended to extend the license agreement with the Modesto Nuts Professional Baseball Club for one year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves extending the license agreement with the Modesto Nuts Professional Baseball Club to lease John Thurman Field, for one year commencing on January 1, 2006, and terminating on December 31, 2006.

BE IT FURTHER RESOLVED that the execution of said agreement extension by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-610**

**A RESOLUTION APPROVING A FIELD MAINTENANCE AGREEMENT  
EXTENSION BETWEEN THE CITY OF MODESTO AND THE MODESTO  
NUTS PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT EXTENSION**

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 an agreement under authority of Resolution No. 2003-649 for the field maintenance of John Thurman Field, 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, it is the desire of the City to extend the field maintenance agreement with the Modesto Nuts Professional Baseball Club for one year commencing on January 1, 2006, and terminating on December 31, 2006, and

WHEREAS, at its December 5, 2005, meeting, the Safety and Communities Committee recommended to extend the maintenance agreement with the Modesto Nuts Professional Baseball Club for one year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves extending the field maintenance agreement with the Modesto Nuts Professional Baseball Club to lease John Thurman Field, for one year commencing on January 1, 2006, and terminating on December 31, 2006.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-611**

**A RESOLUTION APPROVING AN AGREEMENT WITH EDAW, INC. TO  
PROVIDE PHASE I CONSTRUCTION DOCUMENTS, CONSTRUCTION  
OBSERVATION/ ADMINISTRATION AND PERMITTING SUPPORT FOR THE  
GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AT A  
COST NOT TO EXCEED \$398,131, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, in 2003, the City of Modesto, as Lead Agency of the Tuolumne River Regional Park Joint Powers Authority, accepted the recommendation of the TRRP Commission and approved the development of Precise Plan and Construction Documentation to be completed by one firm, and

WHEREAS, after an RFP process, it was determined that EDAW, Inc. was the most qualified to complete these projects, and

WHEREAS, EDAW, Inc. has completed the Precise Plan and Initial Study, and is now prepared to complete the Construction Documentation for Phase I, and

WHEREAS, the Tuolumne River Regional Park (TRRP) Precise Plan and Initial Study were completed in August of 2005 as a Subsequent Project to the TRRP Master Plan and MEIR, and

WHEREAS, these documents, all of the supporting documentation, comments received by the public during the public review period and Responses to Comments were presented to the Modesto City Council, and discussed in a public hearing on September 13, 2005, and

WHEREAS, the Tuolumne River Regional Park Commission met on October 12, 2005, and recommended the acceptance of a proposal from EDAW, Inc. to provide Phase I Construction Documents, Construction Observation/Administration and Permitting

Support for the Gateway Parcel of the Tuolumne River Regional Park in the amount of \$398,131, and funding for staff time in the amount of \$40,000 for a total of \$438,131,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with EDAW, Inc. to provide Phase I Construction Documents, Construction Observation/Administration and Permitting Support for the Gateway Parcel of the Tuolumne River Regional Park in the amount of \$398,131.

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 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-612**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF  
ONE (1) HYBRID-ELECTRIC LOW-FLOOR TRANSIT BUS FROM THE  
GILLIG CORPORATION AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, the City desires to purchase one (1) transit bus to provide new service to the Village I neighborhood and Enochs High School, and

WHEREAS, the City is utilizing the Metropolitan Council's competitive bid process to purchase said bus from the Gillig Corporation, and

WHEREAS, the Gillig Corporation provided the City with a quote based on the bid price the Gillig Corporation submitted to the Metropolitan Council, and

WHEREAS, the Gillig Corporation has quoted the following total price F.O.B. Modesto, including state and local sales taxes: Five Hundred Fifty-Six Thousand, Seven Hundred Seventy-Eight and Seventy-Three One-hundredths Dollars (\$556,778.73), and

WHEREAS, by an agenda report to the City Council dated November 22, 2005, from the Acting Public Works Director, City staff recommended to the Council that said bus be purchased from the Gillig Corporation at the quoted price,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of one hybrid-electric low-floor transit bus from the Gillig Corporation at a cost of \$556,778.73 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said purchase agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-613**

**A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS,  
ACCEPTING THE BID AND APPROVING A \$305,581.00 CONTRACT WITH  
PLAYGROUND PLUS, FOR THE PROJECT TITLED, "PLAY EQUIPMENT  
UPGRADES FOR MODESTO PLAYGROUNDS GROUP 1," 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 1 project, and

WHEREAS, the bids received for "Play Equipment Upgrades for Modesto Playgrounds – Group 1" project were opened at 11:00 a.m. on November 22, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Acting Public Works Director has recommended that the bid of \$305,581 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 \$305,581, and hereby awards Playground Plus, the contract titled "Play Equipment Upgrades for Modesto Playgrounds – Group 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 special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-614**

**A RESOLUTION CANCELING THE CONTRACT WITH SOARES PIPELINE,  
INC., FOR THE PROJECT TITLED, "ANNUAL SEWER REHABILITATION  
2004"**

WHEREAS, Council accepted bids and authorized execution of a contract with Soares Pipeline, Inc., for construction of the "Annual Sewer Rehabilitation 1004" project on January 4, 2005, and

WHEREAS, the contract was subsequently executed and a pre-construction conference was held, and

WHEREAS, on February 14, 2005, the contractor was notified that the contract was being temporarily suspended pending further review of the contract for irregularities by the City Attorney's office, and

WHEREAS, the City Attorney's office has recommended cancellation of the contract with Soares Pipeline, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council that the contract with Soares Pipeline, Inc., for construction of the "Annual Sewer Rehabilitation 2004" project is hereby canceled.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-615**

**A RESOLUTION APPROVING THE FINAL MAP OF OAKDALE PARK  
SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY  
OF MODESTO**

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 2.22 acres, known as OAKDALE PARK (“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 18th day of October, 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 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-616**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE  
AGREEMENT TO CONSTRUCT NECESSARY INFRASTRUCTURE BETWEEN  
THE CITY AND DEL VALLE CAPITAL CORPORATION, INC. (DEL VALLE)  
TO AUTHORIZE FINAL INSPECTION AND OCCUPANCY PERMITS FOR UP  
TO 73 ADDITIONAL HOMES IN THE GALAS BROTHERS UNIT NO. 1 AND  
UNIT NO. 2 SUBDIVISIONS, AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO THE  
AGREEMENT**

WHEREAS, the City entered into an agreement with Del Valle on December 23, 2003, which required Del Valle to complete necessary infrastructure prior to final inspection or occupancy of any home within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions (“Del Valle Agreement”), and

WHEREAS, due to unforeseen circumstances, Del Valle was unable to complete the necessary infrastructure improvements for the water system within the original time frames, and

WHEREAS, this delay impacted Del Valle’s ability to meet contractual obligations with developers, and

WHEREAS, Del Valle met with City staff to determine if interim steps could be taken to develop additional sources of water to allow for a certain number of homes to be occupied, and

WHEREAS, on January 25, 2005, by Resolution 2005-66, Council approved an Amendment to the Del Valle Agreement (“Amendment”) to allow for phasing in of water infrastructure associated with the Del Valle project in order to provide occupancy of up to 108 single-family residences prior to final infrastructure completion, and

WHEREAS, the Amendment also authorized the Director to allow occupancy of up to 50 additional homes if the Director determined that sufficient action had been taken to augment the water supply to serve the Del Valle project and there was sufficient water supply available to serve the West Modesto area, and

WHEREAS, as of September 21, 2005, the 108 homes authorized under the Amendment were constructed and permitted for occupancy, and

WHEREAS, West Yost & Associates (WYA) issued a Technical Memorandum – Phase 1 Study that concluded the City’s water system could not meet the minimum standards during high demand periods to existing or new customers without construction of additional infrastructure improvements in South Modesto, and

WHEREAS, based on information provided in the Phase 1 Study, a preliminary cost estimate of additional infrastructure improvements was determined to be up to, but not to exceed, \$1.5 million, and

WHEREAS, on September 30, 2005, the Acting Public Works Director authorized occupancy permits for 50 additional units within the Galas Brothers subdivisions, pursuant to an agreement with Del Valle, D.R. Horton and Pulte Home Corporation (Del Valle/Developers) who agreed to pay up to \$1,250,000 toward the interim water infrastructure improvements necessary to support these units and provided \$1 million as a deposit toward their funding obligation, and

WHEREAS, on October 17, 2005, WYA issued a draft supplemental – Phase 2 Study, amended on November 7, 2005, which identified the necessary Interim Water Improvements to guarantee adequate water supply to the requested 216 units [108 (Jan. 25, 2005) + 50 (Sep. 30, 2005) + 58 (Nov. 9, 2005)], and

WHEREAS, the current estimate for these necessary water system improvements identified in the Phase 2 Study, as amended, was \$1.492 million, and

WHEREAS, on November 9, 2005, by Resolution 2005-560, Council approved the Second Amendment to the Del Valle Agreement with the City authorizing final inspection and occupancy permits for up to 58 additional homes, and

WHEREAS, this Second Amendment also incorporated the September 30, 2005 Agreement regarding the Funding and Construction of Certain Interim Water Improvements in Return for City's Issuance of Certain Permits between the City, Del Valle Corporation, D.R. Horton, Inc., and Pulte Home Corporation ("Interim Water Improvements Agreement"), and

WHEREAS, an additional requirement of the Second Amendment was for Del Valle/Developers to deposit with the City \$242,000 for estimated project costs exceeding \$1.25 million within ten (10) calendar days after approval of the Second Amendment and before release of the 58 additional homes for occupancy, and

WHEREAS, City has received these funds and the 58 additional homes have been released for occupancy, and

WHEREAS, at the November 9, 2005 Council meeting, Council directed staff to enter into an agreement with West Yost Associates, at the expense of Del Valle/Developers, to conduct an additional capacity analysis to determine whether the remaining 166 units in the Subdivision could be served with water ("Phase 3 Study"), and

WHEREAS, the Phase 3 Study's results indicated the remaining 166 units could be served with water based on construction of the interim improvements described in the Second Amendment, and

WHEREAS, there are other required subdivision infrastructure improvements besides water facilities that are not yet complete, and

WHEREAS, after discussions with Del Valle/Developers, staff recommended the release of occupancies for an additional 73 homes and the withholding occupancies of the remaining balance of the 166 homes to provide the security needed to insure timely completion of remaining infrastructure.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to the Agreement between the City and Del Valle Capital Corporation, Inc. to authorize final inspection and occupancy permits for up to 73 additional homes in the Galas Brothers Unit No. 1 and Unit No. 2 Subdivisions .

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of December 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: M. D. Milich  
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-617**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO  
CONFIRMING THE CANVASS OF THE SECOND REGULAR MUNICIPAL  
ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON DECEMBER  
13, 2005, AND DECLARING THE RESULTS OF SAID ELECTIONS FOR  
COUNCILMEMBERS (RUN-OFF ELECTION)**

WHEREAS, the Charter of the City of Modesto provides that if no candidate for an elective office of the City receives a majority vote at a regular municipal election, a second Regular Municipal Election shall be held at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for the election to the office, and

WHEREAS, at said Regular Municipal Election on November 9, 2005 a majority vote was not cast for Councilmember for Chair 4 to the City Council nor for Councilmember for Chair No. 5, and

WHEREAS, the two candidates receiving the highest number of votes for Councilmember Chair No. 4, Dave Lopez and Will O'Bryant, and the two candidates receiving the highest number of votes for Councilmember Chair No. 5, Denny Jackman and Kristin Olsen, would have their names on the ballot for a run-off election to be held on Tuesday, December 13, 2005, and

WHEREAS, the Second Regular Municipal Election was held by mail ballot in the City of Modesto on Tuesday, December 13, 2005, to elect a Councilmember to the Chair No. 4 and a Councilmember to Chair No. 5, as mentioned above, and said election was held in accordance with the with law and the proceedings of this Council, and the

votes thereat received and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said Second Regular Municipal Election in accordance with law, and certified the results of the election to the Council by a Certificate of Canvass and Statement of Votes dated December 21, 2005, a copy of which is hereto marked EXHIBIT "A" and made a part hereof,

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

SECTION 1. Said Canvass by the City Clerk as shown on said Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as EXHIBIT "A" and made a part hereof, shows a complete tabulation of the following:

- (a) The whole number of votes cast in the city.
- (b) The names of the persons voted for.
- (c) The measures voted upon
- (d) For what office each person was voted for.
- (e) The number of votes given in the city for each person.

SECTION 3. That, at said Second Regular Municipal Election, held by mail ballot, the following named persons having received a majority of the votes cast for the elective offices, as designated on Exhibit "A", are hereby declared to be duly and regularly elected to such office; and, the City Clerk is hereby directed to issue a Certificate of Election to each of said persons, certifying her/her election to the office



appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California, and the Charter of the City, to wit:

Will O'Bryant Councilmember, for a term of four years,  
Chair No. 4, Modesto City Council

Kristin Olsen Councilmember, for a term of four years,  
Chair No. 5, Modesto City Council

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 21<sup>st</sup> of December, 2005, 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

STATEMENT OF THE VOTE

OF

CITY OF MODESTO

COUNTY OF STANISLAUS

STATE OF CALIFORNIA

-CAST AT THE-

CITY OF MODESTO  
MUNICIPAL RUNOFF ELECTION

-HELD-

TUESDAY, DECEMBER 13, 2005

State of California  
County of Stanislaus

I, JEAN ZAHR, City Clerk & Auditor, of the above-named city, do hereby certify that the within is a true and correct statement of results of the votes cast in this county at the City of Modesto Municipal Runoff Election as determined by the official canvass of the returns of the said election.

Witness my hand and seal, this 21<sup>st</sup> day of December, 2005.

  
\_\_\_\_\_  
JEAN ZAHR  
City Clerk & Auditor

CERTIFICATE OF CANVASS  
AND  
STATEMENT OF VOTE

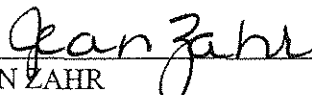
CITY OF MODESTO SECOND REGULAR MUNICIPAL ELECTION  
December 13, 2005

I, Jean Zahr, City Clerk of the City of Modesto, do hereby certify that I publicly canvassed the returns of the City of Modesto Second Regular Municipal Election held on December 13, 2005. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
<b>Chair 4, Modesto City Council</b>		
Dave Lopez	10,356	48.1%
Will O'Bryant	11,152	51.8%
<b>Chair 5, Modesto City Council</b>		
Denny Jackman	8,733	39.7%
Kristin Olsen	13,240	60.2%

**VOTER TURNOUT:**

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
City of Modesto Council Seats	97,775	22,619	23.1%

  
\_\_\_\_\_  
JEAN ZAHR  
City Clerk & Auditor  
City of Modesto

December 21, 2005

\*\* CITY OF MODESTO \*\*  
MUNICIPAL RUNOFF ELECTION - DECEMBER 13, 2005  
SUMMARY REPORT

CITY COUNCIL CHAIR NO. 4	(#/PCT	1)
	(#/RPT	0)
(No. to vote for 1)	(%/RP	0.0)
Dave Lopez	10135	48.0
Will E. O' Bryant	10938	51.9
Blank voted (ballots)	1045	4.7
Over voted (ballots)	41	0.1

CITY COUNCIL CHAIR NO. 5	(#/PCT	1)
	(#/RPT	0)
(No. to vote for 1)	(%/RP	0.0)
Dennis V. Jackman	8523	39.6
Kristin Olsen	12997	60.3
Blank voted (ballots)	594	2.6
Over voted (ballots)	45	0.2

VOTER STATISTICS	(#/PCT	1)
	(#/RPT	0)
	(%/RP	0.0)
CITYWIDE REGISTRATION	97775	
ABSENTEE TURNOUT	22159	22.6
OVERALL VOTER TURNOUT	22159	22.6

CITY COUNCIL CHAIR NO. 4 (No. to vote for 1)		
Dave Lopez	221	50.8
Will E. O' Bryant	214	49.1
Blank voted (ballots)	24	5.2
Over voted (ballots)	1	0.2

CITY COUNCIL CHAIR NO. 5 (No. to vote for 1)		
Dennis V. Jackman	210	46.3
Kristin Olsen	243	53.6
Blank voted (ballots)	7	1.5
Over voted (ballots)	0	0.0

\*\* CITY OF MODESTO \*\*  
MUNICIPAL RUNOFF ELECTION - DECEMBER 13, 2005  
SUMMARY REPORT

CITY COUNCIL CHAIR NO. 4	(#/PCT	1)
	(#/RPT	0)
(No. to vote for 1)	(%/RP	0.0)
Dave Lopez	10356	48.1
Will E. O' Bryant	11152	51.8
Blank voted (ballots)	1069	4.7
Over voted (ballots)	42	0.1

CITY COUNCIL CHAIR NO. 5	(#/PCT	1)
	(#/RPT	0)
(No. to vote for 1)	(%/RP	0.0)
Dennis V. Jackman	8733	39.7
Kristin Olsen	13240	60.2
Blank voted (ballots)	601	2.6
Over voted (ballots)	45	0.1

VOTER STATISTICS	(#/PCT	1)
	(#/RPT	0)
	(%/RP	0.0)
CITYWIDE REGISTRATION	97775	
ABSENTEE TURNOUT	22619	23.1
OVERALL VOTER TURNOUT	22619	23.1