Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-001

RESOLUTION IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services that residents rely upon every day, and gas tax funds are vital to maintain and improve local streets and roads, to make road safety improvements, relieve traffic congestion, and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects, the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this year's borrowing and raids of local government, redevelopment and transit funds, as well as previous, ongoing raids of local government and transportation funds have lead to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California's November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.

THEREFORE, BE IT RESOLVED that City of Modesto formally endorses the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED that we hereby authorize the listing of City of Modesto in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 and instruct staff to fax a copy of this resolution to campaign offices at 916.442.3510.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-002

A RESOLUTION REAPPOINTING FRANK BOOTS, BART BARRINGER, TOM SLATER AND DAVID BORING TO THE DOWNTOWN IMPROVEMENT DISRICT ADVISORY BOARD

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

WHEREAS, the Board of Directors of the Downtown Improvement District have recommended the reappointment of FRANK BOOTS, BART BARRINGER, TOM SLATER and DAVID BORING to the Downtown Improvement District Advisory Board,

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

SECTION 1. FRANK BOOTS, BART BARRINGER, TOM SLATER and DAVID BORING are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2014.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12t^{h} day of January, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-003

A RESOLUTION ACCEPTING A TACO BELL (OCAT) DONATION IN THE AMOUNT OF $4,599 FOR THE PURCHASE OF ONE DIGITAL MOBILE CHILD IDENTIFICATION SYSTEM (FINGERPRINT AND PHOTO IDENTIFICATION UNIT), AND A $1,000 DONATION FROM WAL-MART (THROUGH CRIME STOPPERS) TO BE APPLIED TOWARD THE PURCHASE OF A SECOND ID SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY DOCUMENTS

WHEREAS, the Police Department currently does not have a mobile electronic fingerprinting and photo identification system to utilize in the community, and

WHEREAS, the EZ ID Complete System Turn-Key Package to be purchased with the donated funds is a self-contained computerized fingerprint and photo ID unit, and

WHEREAS, the unit includes a laptop computer, printer, camera, software, digital fingerprint scanner and carrying case, and

WHEREAS, the system provides age appropriate software and safety information to identify persons of all ages, and

WHEREAS, this system also has the capability to record a short interview with the person to provide a voice recognition database, and

WHEREAS, the Identification System will be available at school functions, Safety Fairs, County Fairs, Neighborhood Watch meetings and other community events that provide an optimal venue for gathering this type of information in order to better serve our community, and

WHEREAS, the Police Department believes that this Identification System will prove to be a valuable tool to law enforcement agencies and families in that it will allow them, in those situations where every moment counts, to easily access critical data when attempting to locate missing persons, and

WHEREAS, funds are available in the Child Identification System Account 0420-190-2050 for the purchase of one complete unit ($4,599) and $1,000 remaining to be applied toward the purchase of a second unit:

Appropriate:
To: MY - 0420-190-2050-5400 $5,599 Computer Equip

Revenue:
From: MY - 0420-190-2050-3761 $5,599 Misc. Grants/Donations

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a donation from Taco Bell (OCAT) in the amount of $4,599 to purchase one digital mobile Child Identification System (fingerprint and photo identification unit), and a $1,000 donation from Wal-Mart (through Crime Stoppers) to be applied toward the purchase of a second ID System.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-004

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING BUDGET TO ESTABLISH A NEW MULTI–YEAR OPERATING ACCOUNT 0420-190-2050-5400 TITLED CHILD IDENTIFICATION SYSTEM, AND ESTIMATING REVENUE OF $5,599

WHEREAS, the Police Department currently does not have a mobile electronic fingerprinting and photo identification system to utilize in the community, and

WHEREAS, the EZ ID Complete System Turn-Key Package to be purchased with the donated funds is a self-contained computerized fingerprint and photo ID unit, and

WHEREAS, the unit includes a laptop computer, printer, camera, software, digital fingerprint scanner and carrying case, and

WHEREAS, the system provides age appropriate software and safety information to identify persons of all ages, and

WHEREAS, this system also has the capability to record a short interview with the person to provide a voice recognition database, and

WHEREAS, the Identification System will be available at school functions, Safety Fairs, County Fairs, Neighborhood Watch meetings and other community events that provide an optimal venue for gathering this type of information in order to better serve our community, and

WHEREAS, the Police Department believes that this Identification System will prove to be a valuable tool to law enforcement agencies and families in that it will allow them, in those situations where every moment counts, to easily access critical data when attempting to locate missing persons, and

WHEREAS, there will be no fiscal impact to the City of Modesto, and

WHEREAS, funds are available in the Child Identification System Account 0420-190-2050-5400 for the purchase of one complete unit ($4,599) and $1,000 remaining to be applied toward the purchase of a second unit:

Appropriate:			
To:	0420-190-2050-5400	$5,599	Computer Equip
Revenue:			
From:	0420-190-2050-3761	$5,599	Misc. Grants/Donations

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Operating Budget to establish a new multi-year operating account 0420-190-2050-5400 titled Child Identification System, and estimating revenue of $5,599.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-005

A RESOLUTION APPROVING THE SELECTION OF KIMLEY-HORN & ASSOCIATES, INC. TO PROVIDE AIRPORT ENGINEERING SERVICES FOR A PERIOD NOT TO EXCEED FOUR YEARS

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the selection of Kimley-Horn & Associates, Inc. to provide airport engineering services for a period not to exceed four years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-006

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC. TO PROVIDE DESIGN AND CONSTRUCTION SUPPORT SERVICES FOR THE REHABILITATE NORTHWEST TERMINAL APRON PROJECT FOR THE MODESTO CITY-COUNTY AIRPORT IN AN AMOUNT NOT TO EXCEED $94,566, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

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

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

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

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

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

WHEREAS, KHA has proposed an agreement to provide design services and assist with advertising for the project to rehabilitate the Northwest Terminal Apron of the Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn & Associates, Inc. to provide design and construction management services for Rehabilitate Northwest Terminal Apron for the Modesto City-County Airport in an amount not to exceed $94,566.

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 January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-007

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON "I" STREET BETWEEN 8TH AND 9TH STREETS PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH INSITUFORM TECHNOLOGIES, INC. IN THE AMOUNT OF $120,110 FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON "I" STREET BETWEEN 8TH AND 9TH STREETS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets project and City staff recommends approval by the City Council, and

WHEREAS, the sole bid received for the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets project was opened at 11:00 a.m. on December 8, 2009, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $120,110 received from Insituform Technologies, Inc. be accepted as the lowest responsible bid and the contract be awarded to Insituform Technologies, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets project, accepts the bid of Insituform Technologies, Inc. in the amount of $120,110, and awards Insituform Technologies, Inc. the contract for the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets 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 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-008

A RESOLUTION APPROVING AN AGREEMENT WITH ERLER & KALINOWSKI, INC. FOR PROFESSIONAL SERVICES TO COMPLETE THE CERES/MODESTO REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY IN AN AMOUNT NOT TO EXCEED $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on August 5, 2009, by Resolution No. 2009-385, the City Council approved a Cost Sharing Agreement with the City of Ceres for the development of a Regional Wastewater System Feasibility Study (RWWSFS), and

WHEREAS, at the same meeting, by Resolution No. 2009-387, Council authorized the issuance of a Request for Proposals (RFP) to secure professional servicers to complete the Regional Wastewater System Feasibility Study, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, City staff issued an RFP in September 2009 to interested consulting firms, and received five proposals, and

WHEREAS, after review by City staff and a City of Ceres representative, it was determined to interview three firms, and

WHEREAS, based on the proposals received and presentations made by the consulting firms at the interviews, staff determined that Erler & Kalinowski, Inc. (EKI) provided the best overall approach for conducting and completing the requested RWWSFS, and

WHEREAS, funds for this agreement are budgeted in CIP Account No. 6210-480-B120 "Ceres/Modesto Regional Wastewater Feasibility Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Erler & Kalinowski, Inc. for professional services to complete the Ceres/Modesto Regional Wastewater System Feasibility Study in an amount not to exceed $100,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-009

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO RECOGNIZE REVENUE IN THE AMOUNT OF $50,000 FROM THE CITY OF CERES TO COVER CERES' COST SHARE OF THE CERES/MODESTO REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY

WHEREAS, certain budgetary transactions are necessary in the amount of $50,000, in order to provide funding necessary for consultant charges for the City of Ceres' cost share of the Ceres/Modesto Regional Wastewater System Feasibility Study, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended by recognizing revenue in the amount of $50,000 to Revenue Object 3400-02-City of Ceres Regional Wastewater Study and increase offsetting expenditures in the same amount to Object 6080-Consultant Charges in CIP Account 6210-480-B120 "Ceres/Modesto Regional Wastewater Study,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget to recognize revenue in the amount of $50,000 from the City of Ceres to cover Ceres' cost share of the Ceres/Modesto Regional Wastewater System Feasibility Study as shown in **Exhibit A attached** hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:
Wastewater Fund-CIP

REVENUES:		Increase/(Decrease)
City of Ceres Regional WW Study	6210-480-B120-3400-02	$50,000

EXPENDITURES:		Increase/(Decrease)
Ceres/Modesto Reg WW Feas Study	6210-480-B120-6080	$50,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-010

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC. FOR THE "FLOYD AVENUE IMPROVEMENT FROM ROSELLE AVENUE TO FINE AVENUE PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,149,421.57

WHEREAS, a report has been filed by the Director of Public Works that the Floyd Avenue Improvements from Roselle Avenue to Fine Avenue Project has been completed by George Reed, Inc. in accordance with the contract agreement dated May 6, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Floyd Avenue Improvements from Roselle Avenue to Fine Avenue Project" is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $2,149,421.57 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-011

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION LAS FLORES AVENUE TO PHOENIX AVENUE PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH MOUNTAIN CASCADE, INC. IN THE AMOUNT OF $1,428,888 FOR THE YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION LAS FLORES AVENUE TO PHOENIX AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue project were opened at 11:00 a.m. on October 20, 2009, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $1,428,888 received from Mountain Cascade, Inc. be accepted as the lowest responsible bid and the contract be awarded to Mountain Cascade, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue project, accepts the bid of Mountain Cascade, Inc. in the amount of $1,428,888, and awards Mountain Cascade, Inc. the contract for the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue 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 12th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-012

A RESOLUTION DESIGNATING COUNCILMEMBER LOPEZ 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 Lopez 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 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-013

A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR CONSTRUCTION OF THE REALIGNMENT OF GRAPHICS DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT NOT TO EXCEED $2,173,426.19, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District ("MID") is in the process of constructing a 49.6 megawatt power plant located in the southeastern corner of Woodland Avenue and Graphics Drive intersection, and

WHEREAS, MID obtained approval from the City of Modesto ("City") of a Vesting Tentative Parcel Map which provides for the realignment of the existing Graphics Drive which is the alignment contemplated in the City's Draft Kansas Woodland Business Park Specific Plan ("Project), and

WHEREAS, MID has agreed to advance the funds necessary to proceed with the construction of the realignment of Graphics Drive ("Project"), and

WHEREAS, MID's share of the cost of the improvements for the Project is 19.47% and the City's share of the cost of the improvements for the Project is 80.53%, and

WHEREAS, the City is considering forming a community facilities district (CFD) for the purpose of financing some or all of the improvements and paying the cost of certain public services necessary or desirable in connection with the development of the Kansas Woodland Business Park, and

WHEREAS, MID will be reimbursed a share of the cost of the Project by special tax revenue generated by the future CFD along with a small contribution from the sewer fund, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $2,173,426.19, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Acquisition and Shortfall Agreement between City of Modesto and the Modesto Irrigation District for construction of the realignment of Graphic Drive.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-014

A RESOLUTION APPROVING A LANDSCAPING MAINTENANCE ASSESSMENT AND AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR LANDSCAPING MAINTENANCE OF GRAPHICS DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District ("MID") is in the process of constructing a 49.6 megawatt power plant located in the southeastern corner of Woodland Avenue and Graphics Drive intersection, and

WHEREAS, MID will dedicate to the City certain roadway and landscaping improvements as part of the development of the construction of the realignment of Graphics Drive ("Project"), and

WHEREAS, the City's Draft Kansas Woodland Business Park Specific Plan envisions that the public infrastructure for the maintenance of landscaping within the Kansas Woodland Business Park will be financed by a combination of fees, project-wide financing program, and developer funding, and

WHEREAS, the City is considering forming a community facilities district (CFD) for the purpose of financing some or all of the improvements and paying the cost of certain public services necessary or desirable in connection with the development of the Kansas Woodland Business Park, and

WHEREAS, the City agrees that it will either establish the CFD, or in the alternative, will require the establishment of a funding mechanism to provide for the maintenance of the landscaping within the Kansas Woodland Business Park, including the Project improvements, and

WHEREAS, the City desires to have the landscaping maintained for a period of time until the City establishes the CFD or other funding mechanism to provide funding for landscape maintenance, and

WHEREAS, MID has agreed to be responsible for 100% of the landscape maintenance expenses associated with the Project until such time as a CFD or other funding mechanism is established to maintain the Project, and

WHEREAS, upon establishment of a CFD or other funding mechanism, MID will be reimbursed 80.53% of the maintenance costs it expended on the Project, and

WHEREAS, MID has agreed to contribute, in perpetuity, 19.47% of the maintenance expenses of the portion of the Project it installed, and

WHEREAS, the City Council has considered the proposed Landscaping Maintenance Assessment and Agreement ("Agreement") between City of Modesto and the Modesto Irrigation District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Landscaping Maintenance Assessment and Agreement between the City of Modesto and the Modesto Irrigation District for the maintenance of landscaping within the Kansas Woodland Business Park.

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 January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-015

RESOLUTION APPROVING THE AIRPORT LAYOUT PLAN (ALP) AND 5-YEAR PROGRAM NARRATIVE SUMMARY PREPARED FOR MODESTO CITY-COUNTY AIRPORT BY COFFMAN ASSOCIATES, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THESE DOCUMENTS TO THE FEDERAL AVIATION ADMINISTRATION FOR APPROVAL

WHEREAS, on January 6, 2009, by Resolution No. 2009-026, the City Council approved an agreement with Coffman Associates, Inc. (Coffman) for airport planning services to include providing a new ALP and a 5-year Program Narrative Summary, and

WHEREAS, an approved ALP is required for all public airports that receive federal funding, and all proposed airport improvement projects must be shown on an approved ALP for funding consideration, and

WHEREAS, a Program Narrative Summary is a short-term airport development plan, which defines the rationale behind proposed airport improvements in order to facilitate final approval for projects proposed for federal funding , and

WHEREAS, on December 15, 2009, the Airport Advisory Committee unanimously endorsed moving forward for Council consideration to approve the ALP and Program Narrative Summary prepared by Coffman,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Airport Layout Plan and Program Narrative Summary prepared for the Modesto City-County Airport by Coffman Associates, Inc.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to submit these documents to the Federal Aviation Administration for approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-016

A RESOLUTION APPROVING A COST SHARING AGREEMENT BETWEEN THE DEL PUERTO WATER DISTRICT AND THE CITY OF MODESTO FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM FEASIBILITY STUDY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the water shortage in California is now at a crisis level due to a three-year drought and pumping reductions from the San Joaquin River Delta, and

WHEREAS, the water crisis is severe in the San Joaquin Valley, particularly south of the San Joaquin River Delta, and

WHEREAS, the water crisis has had a significant negative impact on farming, economic development and the water environment in the San Joaquin Valley, and

WHEREAS, Federal Central Valley Project water contractors have seen their agricultural water deliveries reduced to ten percent (10%) of their contract allotments, and

WHEREAS, the expanded use of recycled water, particularly for the west side of the San Joaquin Valley (south of the Delta), represents a potential solution for part of the California water crisis, and

WHEREAS, representatives from the City of Modesto and the Del Puerto Water District have been meeting to discuss the concept of developing a regional recycled water delivery system, and

WHEREAS, preliminary staff reviews by the representatives of both parties indicate that there are advantages for considering a recycled water delivery system that make it worthy of further analysis, and

WHEREAS, staff recommended securing consultant services to perform a Regional Recycled Water Delivery System Feasibility Study (Study) for further analysis, and

WHEREAS, the estimated cost for this Study is $100,000, and the cost sharing between the Del Puerto Water District and the City of Modesto will be fifty percent (50%), or $25,000 each, with the parties jointly seeking a 50% cost share from the Bureau of Reclamation or other sources, and

WHEREAS, Del Puerto Water District will be the lead agency for issuing the Request for Proposals and managing the consultant services agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for associated task items of work to share certain costs for the development of a Regional Recycled Water Delivery System Feasibility Study.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-017

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE CITY'S SHARE OF A COST SHARING AGREEMENT BETWEEN THE DEL PUERTO WATER DISTRICT AND THE CITY OF MODESTO FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM FEASIBILITY STUDY BY TRANSFERRING $25,000 FROM WASTEWATER FUND RESERVES TO CAPITAL IMPROVEMENT PROJECT (6210-430-B119)

WHEREAS, the water shortage in California is now at a crisis level due to a three-year drought and pumping reductions from the San Joaquin River Delta, and

WHEREAS, the water crisis is severe in the San Joaquin Valley, particularly south of the San Joaquin River Delta, and

WHEREAS, the water crisis has had a significant negative impact on farming, economic development, and the water environment in the San Joaquin Valley, and

WHEREAS, Federal Central Valley Project water contractors have seen their agricultural water deliveries reduced to ten percent (10%) of their contract allotments, and

WHEREAS, the expanded use of recycled water, particularly for the west side of the San Joaquin Valley (south of the Delta), represents a potential solution for part of the California water crisis, and

WHEREAS, representatives from the City of Modesto and the Del Puerto Water District have been meeting to discuss the concept of developing a regional recycled water delivery system, and

WHEREAS, preliminary staff reviews by the representatives of both parties indicate that there are advantages for considering a recycled water delivery system that make it worthy of further analysis, and

WHEREAS, staff recommended securing consultant services to perform a Regional Recycled Water Delivery System Feasibility Study (Study) for further analysis, and

WHEREAS, the estimated cost for this Study is $100,000, and the cost sharing between the Del Puerto Water District and the City of Modesto will be fifty percent (50%), or $25,000 each, with the parties jointly seeking a 50% cost share from the Bureau of Reclamation or other sources, and

WHEREAS, under separate Council action, a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for this Study was approved, with each party contributing fifty percent (50%), or $25,000 each, and

WHEREAS, staff is requesting a transfer from Wastewater Fund Reserves (6210-800-8000-8003) in the amount of $25,000 into a Capital Improvement Project (6210-430-B119) to pay for the proposed Regional Recycled Water Delivery System Feasibility Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget in order to fund the City's share of a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for the development of a Regional Recycled Water Delivery System Feasibility Study by transferring $25,000 from Wastewater Fund Reserves to Capital Improvement Project (6210-430-B119).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FUND: WASTEWATER FUND – CIP

EXPENDITURES:

		INCREASE/DECREASE
Wastewater Fund Reserves	6210-800-8000-8003	($25,000)
Del Puerto Reg WW Feas Study	6210-430-B119-6080	$25,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-018

RESOLUTION ACCEPTING A NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) GRANT AWARD IN THE AMOUNT OF $25 MILLION FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL AGREEMENTS RELATED TO ACCEPTANCE OF THE GRANT AWARD, NSP2 PURCHASE/SALE AGREEMENTS, LOAN DOCUMENTS, AND ALL RELATED DOCUMENTS FOR NSP2 FUNDED TRANSACTIONS, AS APPROVED BY THE SUB-COMMITTEE OF THE CITIZENS' HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC), AND BASED ON PREVIOUSLY APPROVED CRITERIA AND GUIDELINES FOR THE NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, the NSP2 is a major Recovery Act initiative of the Federal government to address the challenge of foreclosed and abandoned homes in communities throughout the nation, and

WHEREAS, on January 14, 2010, the City of Modesto received an NSP2 grant award notice from the United States Department of Housing and Urban Development (HUD) in the amount of $25 million, and

WHEREAS, these funds are to be used for the purchase and rehabilitation of foreclosed and or abandoned homes within specific census tracts in the City of Modesto to address the challenge these properties pose for communities such as Modesto, and

WHEREAS, the City's NSP2 application, as approved by HUD, recommended allocations in the following categories of spending:

- Acquisition and Rehabilitation Program ($10.5 million) for developers to acquire and rehabilitate 100 foreclosed or abandoned properties in targeted census tracts.
- Housing Authority and Emancipated Foster and Homeless Youth Program ($6 million) for the Housing Authority to work with the Center for Human Services and

the Emancipated Foster and Homeless Youth Program to purchase/rehabilitate 40 foreclosed and or abandoned residential properties to house foster and homeless youth between the ages of 18 and 25.

- Stanislaus Community Assistance Project ($6 million) for the development, acquisition, and rehabilitation of 35 foreclosed or abandoned properties in specified census tracts to house special needs populations.

WHEREAS, under the City's program, qualified organizations are able to request funding for eligible property acquisition and rehabilitation within the categories listed above, and

WHEREAS, these requests are reviewed by a sub-committee of the CH&CDC based on previously approved criteria for the NSP1 and once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP2 funds by January 14, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a Neighborhood Stabilization Program 2 grant award from the United States Department of Housing and Urban Development in the amount of $25 million.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all agreements related to acceptance of the grant award, Neighborhood Stabilization Program 2 Purchase/Sale Agreements, Loan Documents, and all related documents for NSP2 funded transactions, as approved by the sub-committee of

the Citizens' Housing and Community Development Committee, and based on previously approved criteria and guidelines for the Neighborhood Stabilization Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-019

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 BUDGET TO CREATE FOUR MULTI-YEAR ORGANIZATIONS IN A NEW FUND, TO ESTIMATE AND APPROPRIATE $25 MILLION IN FUNDS FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

WHEREAS, the Neighborhood Stabilization Program 2 (NSP2) is a major Recovery Act initiative of the Federal government to address the challenge of foreclosed and abandoned homes in communities throughout the nation, and

WHEREAS, on January 14, 2010, the City of Modesto received an NSP2 grant award notice from the United States Department of Housing and Urban Development (HUD) n the amount of $25 million, and

WHEREAS, these funds are to be used for the purchase and rehabilitation of foreclosed and or abandoned homes within specific census tracts in the City of Modesto to address the challenge these properties pose for communities such as Modesto, and

WHEREAS, the City's NSP2 application, as approved by HUD, recommended allocations in the following categories of spending:

- Acquisition and Rehabilitation Program ($10.5 million) for developers to acquire and rehabilitate 100 foreclosed or abandoned properties in targeted census tracts.
- Housing Authority and Emancipated Foster and Homeless Youth Program ($6 million) for the Housing Authority to work with the Center for Human Services and the Emancipated Foster and Homeless Youth Program to purchase/rehabilitate 40 foreclosed and or abandoned residential properties to house foster and homeless youth between the ages of 18 and 25.

- Stanislaus Community Assistance Project ($6 million) for the development, acquisition, and rehabilitation of 35 foreclosed or abandoned properties in specified census tracts to house special needs populations.

WHEREAS, under the City's program, qualified organizations are able to request funding for eligible property acquisition and rehabilitation within the categories listed above, and

WHEREAS, these requests are reviewed by a sub-committee of the Citizens' Housing & Community Development Committee (CH&CDC) based on previously approved criteria for the NSP1 and once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP2 funds by January 14, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 budget to create four multi-year organizations in a new fund, to estimate and appropriate $25 million in funds from the American Recovery and Reinvestment Act of 2009.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-020

A RESOLUTION APPOINTING SUSAN AZEVEDO TO THE CITY OF MODESTO PUBLIC EVENTS ADVISORY COMMITTEE

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

WHEREAS, on June 25, 2002, the Modesto City Council formed the Public Events Advisory Committee, and

WHEREAS, because of the recent election and Committee bylaws, a new appointment to the Public Events Advisory Committee is necessary,

WHEREAS, Councilmember Dave Geer has nominated Susan Azevedo to serve as a member of the Public Events Advisory Committee,

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

SECTION 1. SUSAN AZEVEDO is hereby appointed to the Public Events Advisory Committee.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-021

A RESOLUTION APPOINTING KEITH BOGGS TO THE CITY OF MODESTO PUBLIC EVENTS ADVISORY COMMITTEE

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

WHEREAS, on June 25, 2002, the Modesto City Council formed the Public Events Advisory Committee, and

WHEREAS, because of the recent election and Committee bylaws, a new appointment to the Public Events Advisory Committee is necessary,

WHEREAS, Councilmember Joe Muratore has nominated Keith Boggs to serve as a member of the Public Events Advisory Committee,

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

SECTION 1. KEITH BOGGS is hereby appointed to the Public Events Advisory Committee.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-022

A RESOLUTION APPROVING TASK ORDER NO. 3 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH GOODWIN CONSULTING GROUP, INC. FOR THE ANNUAL ADMINISTRATION OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE TASK ORDER NO. 3

WHEREAS, the City Council is desirous of administering and maintaining its existing Community Facilities Districts ("CFDs"), and

WHEREAS, on February 13, 2007, the City Council, by Resolution No. 2007-105, approved a Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. ("Consultant") for the administration of CFDs, and

WHEREAS, on July 24, 2007, the City Council, by Resolution No. 2007-433, approved Task Order No. 1 for the administration of the City's then existing CFDs, and

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-253, approved Task Order No. 2 for the annual administration of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West), and

WHEREAS, Consultant has prepared Task Order No. 3 ("Task Order") for the administration of the City of Modesto Community Facilities District No. 2009-1(Kiernan Business Park East), **attached** hereto as **Exhibit "A"** and incorporated herein by reference, and

WHEREAS, the annual administration of the City's CFDs is funded through an annual special maintenance tax as described in the Rate and Method of Apportionment of each CFD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Task Order No. 3 to the Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. for the annual administration of City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Task Order No. 3.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

GOODWIN CONSULTING GROUP, INC.

TASK ORDER #3
SCOPE OF WORK FOR ANNUAL ADMINISTRATION

COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

This task order sets forth the scope of work and fee schedule for Goodwin Consulting Group, Inc. (GCG) to provide services related to the annual administration of the City of Modesto Community Facilities District (CFD) No. 2009-1 (Kiernan Business Park East). Each fiscal year, GCG will provide the following tasks to ensure submittal of the special tax levy, compliance with continuing disclosure requirements, and monitoring of arbitrage earned on CFD accounts.

A. CFD SPECIAL TAX ADMINISTRATION

1. Database Development

With parcel and building permit data provided by City staff, GCG will construct a database that will be used to calculate the annual special tax levy for the CFD. This task will include the following:

Map, Parcel and Permit Data: Coordinate with City staff to obtain information needed for the allocation of special taxes, including assessor parcel numbers (APNs), date of subdivision and building permit issuance, property use, and acreage for each parcel in the CFD in each fiscal year.

Classification of Property: Pursuant to the Rate and Method of Apportionment (RMA) of Special Tax for the CFD, categorize each parcel to the appropriate special tax classification.

Database Management: Prepare a database for the CFD which will contain all properties, parcel numbers, assigned tax categories, and other relevant information which will allow for the assignment of the special tax pursuant to the RMA.

2. Annual Special Tax Levy Calculation

GCG will calculate the special tax levy for each taxable parcel in the CFD by applying the Rate and Method of Apportionment of Special Tax. GCG will identify all CFD expenses including annual debt service, administrative expenses, and collection costs. Any applicable surplus special taxes, interest earnings, and other credits will be applied to

reduce the annual special tax levy.

3. Annual CFD Administration Report Preparation

GCG will annually prepare a special tax administration report for the CFD which contains the results of our parcel research and findings of the financial analysis. An explanation of the methodology employed to calculate the special taxes levied will be incorporated. The report will also include annual reporting items required by Senate Bill 165 (Local Agency Special Tax and Bond Accountability Act). The appendix to this report will identify the special tax levy for each assessor's parcel for the fiscal year.

4. Annual Special Tax Enrollment

GCG will compile a list of parcels in the CFD that will be subject to the special tax levy and format it in compliance with the specific formatting instructions of the Stanislaus County Auditor-Controller's Office. The formatted tax levy will be submitted to the Auditor-Controller's Office on or before August 10 (or other specified date) for inclusion on the consolidated property tax bills.

5. Delinquent Special Tax Reporting

GCG will monitor the Auditor-Controller's tax collection summaries and report on delinquent parcels and corresponding delinquent CFD taxes. If requested by the City, GCG will prepare and mail demand letters to property owners with delinquent special taxes. Additionally, GCG will work with the City to ensure the CFD's compliance with any foreclosure covenants and provisions in the bond documents.

6. Answer Inquiries from Various Parties

GCG will respond to property owners, realtors, title companies, appraisers and other parties' questions regarding the special tax and other CFD related issues. A GCG staff member will be listed as the contact for calls that are received by the County Treasurer/Tax Collector's Office; most calls will be responded to on the day received.

7. Mello-Roos Cash Flow Analysis

If needed, GCG will update the financial cash flow model for the CFD to examine the relationship of special tax revenues and debt service requirements. This cash flow model will incorporate information regarding bonded indebtedness, annexations, prepayments, and current and projected development.

8. Prepayments

If a property owner is interested in reducing or ceasing the levy of special taxes on a Parcel, GCG will provide the City with a prepayment estimate based on the formula

provided in the Rate and Method of Apportionment of Special Tax. GCG will ensure that prepayments include all required bond premiums, negative arbitrage estimates, reserve fund credits and administrative charges.

9. Coordination of Foreclosure Activities

GCG will assist the City in complying with provisions in the bond indenture or fiscal agent agreement regarding actions to be taken in the event of a foreclosure on a property due to tax delinquency. GCG will coordinate with City staff and legal counsel to identify those parcels for which judicial foreclosure will be initiated.

B. CONTINUING DISCLOSURE

GCG will provide information to the Nationally-Recognized Municipal Securities Information Repositories (pursuant to S.E.C. regulations) and the California Debt and Investment Advisory Commission (pursuant to Senate Bill 1464) and prepare special tax disclosure materials to home buyers as specified in Senate Bill 1464. This task shall include the following subtasks:

Prepare the annual Continuing Disclosure Report and respond to secondary information requirements set forth in SEC Section 15c2-12, as amended.

Submit the annual Fiscal Report as specified in Government Code Section 53359.5 to California Debt and Investment Advisory Commission by October of each year.

Prepare special tax disclosure materials on the City's behalf for resale properties as required by Government Code Section 53340.2.

C. ARBITRAGE REBATE CALCULATION

GCG will prepare the annual or five-year arbitrage rebate calculations. A report, identifying the rebate liability for the CFD, will be produced. GCG will determine the amount, if any, that must be rebated to the federal government at each five-year interval.

EXHIBIT B

GOODWIN CONSULTING GROUP, INC.

TASK ORDER #3
FEE SCHEDULE FOR ANNUAL ADMINISTRATION

COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

A. Maximum Annual Budget

The budget for annual administration of CFD No. 2009-1 is $15,000 for fiscal year 2010-11, which amount may be adjusted for inflation thereafter.

B. Hourly Fee Schedule

Services provided pursuant to this scope of work will be billed using the following fee schedule:

GCG HOURLY SERVICE RATES *

Managing Principal	$250/Hour
Principal	240/Hour
Senior Associate	185/Hour
Associate	160/Hour
Analyst	145/Hour
Research Assistant	80/Hour

**** Effective through fiscal year 2009-10 and may be adjusted for inflation thereafter.***

C. General Terms and Conditions

GCG will charge for time and materials, using the hourly rates set forth in above, up to the proposed budget maximums, subject to the limitations below, unless otherwise agreed to by the City. Monthly invoices will be presented to the City to provide details of services rendered and expenses incurred. At the City's request, services in addition to those identified in the scope of

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work may be provided if the total fee to complete the tasks selected is less than the budget. Alternatively, if the selected tasks can be completed for less than the budget, only the hours actually expended will be billed.

In addition to fees for services, GCG will be reimbursed for mileage, photocopying, database services or materials, facsimile and telephone calls, clerical services, and other out-of-pocket expenses in an amount not to exceed $500 per year per CFD.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-023

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "ROUNDABOUT IMPROVEMENTS AT TWO LOCATIONS – LA FORCE DRIVE/HILLGLEN AVENUE/KODIAK DRIVE AND HILLGLEN AVENUE/WOOD SORREL DRIVE", ACCEPTING THE BID, APPROVING A CONTRACT FOR THE PROJECT WITH GEORGE REED, INC. FOR $199,697.70; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, Traffic Engineering staff applied for, and received, 100% Congestion Mitigation Air Quality (CMAQ) funding for the construction of roundabouts, and

WHEREAS, this project will install roundabouts at the intersections of LaForce Drive/Hillglen Avenue/Kodiak Drive and Hillglen Avenue/Wood Sorrel Drive, and

WHEREAS, bids for this project were opened on November 11, 2009, and

WHEREAS, George Reed, Inc. was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Roundabout Improvements at Two Locations – La Force Drive/Hillglen Avenue/Kodiak Drive and Hillglen Avenue/Wood Sorrel Drive", accepts the bid, and approves a contract with George Reed, Inc. for $199,697.70.

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 January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-024

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "NEW TRAFFIC SIGNAL INSTALLATION - STANDIFORD AVENUE AT HAHN DRIVE AND PRESCOTT ROAD AT CHEYENNE WAY," ACCEPTING THE BID, APPROVING A CONSTRUCTION CONTRACT WITH WINGARD ENGINEERING, INC. FOR $345,824; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the project titled "New Traffic Signal Installation – Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way" will install traffic signals at the intersections of Standiford Avenue/Hahn Road and Prescott Road/Cheyenne Way, and

WHEREAS, bids for this project were opened on November 10, 2009, and

WHEREAS, Wingard Engineering, Inc. was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "New Traffic Signal Installation - Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way", accepts the bid, and approves a contract with Wingard Engineering, Inc. for $345,824.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: Muratore, Olsen

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-025

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET TO RECOGNIZE AND APPROPRIATE NEW CONGESTION MITIGATION AIR QUALITY GRANT REVENUES OF $47,027, AND TO INCREASE THE EXPENDITURE APPROPRIATION OF 1410-160-E332, "NEW TRAFFIC SIGNALS 2008," TO $497,027

WHEREAS, the estimated capital cost of the project titled "New Traffic Signal Installation – Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way," is $428,821, and

WHEREAS, currently $450,000 is budgeted in Account No. 1410-160-E332 for the construction of the project, and

WHEREAS, amending the Capital Improvement Program (CIP) budget to recognize the increase in Congestion Mitigation Air Quality (CMAQ) funds of $47,027 to Account No. 1410-160-E332 for a total of $497,027 will provide sufficient funds to award the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Program budget to appropriate new Congestion Mitigation Air Quality grant revenues of $47,027, and to increase the expenditure appropriation of 1410-160-E332, "New Traffic Signals 2008," to $497,027.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: Muratore, Olsen

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-026

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF VINYL ESTER FIBERGLASS GRATE PANELS AND "I" BEAMS FOR THE PUBLIC WORKS DEPARTMENT, WASTE WATER COLLECTIONS DIVISION, TO DELTA COMPOSITES, LLC, SPRING, TX FOR AN ESTIMATED TOTAL COST OF $47,897

WHEREAS, on May 5, 2009, the City Council, by Resolution No. 2009-201, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the entire Bio Filter Rehabilitation project, and

WHEREAS, the Purchasing Division issued RFB No. 0910-06 vinyl ester grate panels and "I" beams to nine (9) prospective bidders, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nine (9) prospective bidders, two (2) companies chose to respond. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of vinyl ester grate panels and "I" beams for the Public Works Department, Waste Water Collections Division, to Delta Composites, LLC, Spring, TX, for an estimated total of $47,897, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of vinyl ester grate panels and "I" beams for the Public Works Department, Waste Water Collections

Division, to Delta Composites, LLC, Spring, TX, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 6210-480-B186-6040,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of vinyl ester grate panels and "I" beams for the Public Works Department, Waste Water Collections Division, to Delta Composites, LLC, Spring, TX.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $47,897.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-027

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND REHABILITATION OF THE BIO FILTER COATINGS FOR THE PUBLIC WORKS DEPARTMENT, WASTE WATER COLLECTIONS DIVISION, TO SANCON ENGINEERING, INC., HUNTINGTON BEACH, CA, FOR AN ESTIMATED TOTAL COST OF $132,585; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT

WHEREAS, on May 5, 2009, the City Council, by Resolution No. 2009-201, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the Bio Filter Rehabilitation project, and

WHEREAS, the Purchasing Division issued RFB No. 0809-26 Rehabilitation of Bio Filter Coatings to twenty-eight (28) prospective bidders, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-eight (28) prospective bidders, three (3) companies chose to respond. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and rehabilitation of the Bio Filter coatings for the Public Works Department, Waste Water Collections Division, to Sancon Engineering, Huntington Beach, CA, for an estimated total cost of $132,585, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase and rehabilitation of

the Bio Filter coatings for the Public Works Department, Waste Water Collections Division, to Sancon Engineering, Inc., Huntington Beach, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 6210-480-B186-6040,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and rehabilitation of the Bio Filter coatings for the Public Works Department, Waste Water Collections Division, to Sancon Engineering, Inc., Huntington Beach ,CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an agreement for an estimated total cost of $132,585.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-028

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF TIRE RECAPPING AND RELATED SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BRANNON TIRES, INC., STOCKTON, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT, FOR AN ESTIMATED ANNUAL COST OF $53,680

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-533, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of tire recapping and related services for the Fleet Services Division, and

WHEREAS, the Purchasing Division issued RFB No. 0910-03 Tire Recapping and Related Services to eight (8) prospective bidders. The bid was posted on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Four (4) companies chose to respond, none of which were local vendors as defined in the Modesto Municipal Code. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $53,680, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the furnishing of tire recapping and

related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in various appropriation units:

7200-480-5812-0365 and 6540-480-5612-0365	Equipment Maintenance and Repair
7200-480-5812-0265 and 6540-480-5612-0265	Vehicle Rep Cont

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $53,680.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-029

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FOUR (4) FRONT LOADERS FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, GREEN WASTE DIVERSION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO RGW EQUIPMENT SALES, LIVERMORE, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $305,072

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, all four (4) front loaders are replacements for current units and these vehicles are part of the Air Resources Board (ARB) off-road diesel vehicle regulation. As part of the City of Modesto ARB compliant plan these vehicles are targeted to be replaced, and

WHEREAS, the Purchasing Division issued RFB No. 0910-09 Front Loaders to nine (9) prospective bidders, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nine (9) prospective bidders, three (3) companies chose to respond, none of which were local vendors as defined in the Modesto Municipal Code. All companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA, for an estimated total cost of $305,072, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in FY 09/10 in appropriation unit: 7210-480-5814-5514,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $305,072.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-030

RESOLUTION AUTHORIZING AMENDMENTS TO THE NEIGHBORHOOD STABILIZATION PROGRAM LOAN TERMS FOR FOR-PROFIT LOANS TO (1) DEFER OF THE REHABILITATION PORTION OF FOR-PROFIT LOANS FOR 15 YEARS TO COINCIDE WITH THE AFFORDABILITY PERIOD; (2) AT THE SOLE DISCRETION OF THE CITY, FORGIVE THE REHABILITATION PORTION OF THE LOAN IF THE AFFORDABILITY CONVENANT IS FULFILLED AT THE END OF THE 15-YEAR TERM AND THE PROPERTY IS SOLD TO A QUALIFYING LOW-INCOME HOUSEHOLD; (3) INCREASE IN LOAN TERMS FROM 30 YEARS TO 40 YEARS TO ALLOW FOR A 35-YEAR AMORTIZATION; AND (4) AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO FULLY EXECUTE ALL NEIGHBORHOOD STABILIZATION PROGRAM AMENDED LOAN AGREEMENTS TO RECONCILE TO ACTUAL PROJECT EXPENDITURES

WHEREAS, the City of Modesto received $8.1 million in Neighborhood Stabilization Program (NSP) funding through U.S. Department of Housing and Urban Development (HUD), Community Development Block Grant Program, under the Housing and Economic Recovery Act of 2008 (HERA), and $4.0 million was allocated for the purchase and rehabilitation of foreclosed and abandoned homes within specific focus areas, and

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of NSP funds, and

WHEREAS, under the City's program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and

WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria with funding allocated for the property purchase, and

WHEREAS, rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis once the work has been done and inspections completed, and

WHEREAS, due to the current housing market constraints, staff recommends (1) deferring the rehabilitation portion of the loan for 15 years, (2) separating the acquisition and rehabilitation loans by issuing two promissory notes, and (3) increasing the amortization period of the NSP loans from 30 to 40 years to allow the amortization of the loans over a 35-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amendments to the Neighborhood Stabilization Program loan terms for for-profit loans to (1) defer the rehabilitation portion of the for-profit loans for 15 years to coincide with the affordability period; (2) at the sole discretion of the City, forgive the rehabilitation portion of the loan if the affordability covenant is fulfilled at the end of the 15-year term and the property is sold to a qualifying low-income household; and (3) increase the loan terms from 30 years to 40 years to allow for a 35-year amortization..

BE IT FURTHER RESOLVED that it hereby authorizes the City Manager, or his designee, to fully execute all Neighborhood Stabilization Program amended loan agreements to recognize all actual project expenditures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-031

A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY BEHAVIORAL HEALTH AND RECOVERY SERVICES IN THE AMOUNT OF $27,000 TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Stanislaus County Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since the Party Patrol was established, and

WHEREAS, the Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks, as well as produce posters to educate youth about the harmful effects of alcohol, and

WHEREAS, the term of this Agreement is January 1, 2010 through December 31, 2010, and

WHEREAS, the City shall be compensated in the amount of $27,000 for the services of Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stanislaus County Behavioral Health and Recovery Services in the amount of $27,000 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2010-032

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 MULTI-YEAR BUDGET ESTIMATING REVENUE OF $27,000 FROM STANISLAUS COUNTY TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY

WHEREAS, since May 2, 2006, the City of Modesto Police Department has had an annual Party Patrol Agreement with Stanislaus County Behavioral Health and Recovery Services (BHRS) to provide party patrol officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County, and

WHEREAS, the term of the Agreement is January 1, 2010 through December 31, 2010, and

WHEREAS, the Fiscal Year 2009-2010 multi-year budget must be amended to reflect the $27,000 in revenue from Stanislaus County associated with this program as shown in **Exhibit A**, which is incorporated by reference herein, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009-2010 multi-year budget is hereby amended estimating revenue of $27,000 from Stanislaus County to provide party patrol police officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

	Expense:		
To:	**0420-190-2095-0130**	**$27,000**	**Officers' Overtime Hours Cost**
	Revenue:		
To:	**0420-190-2095-3730**	**$27,000**	**School/County Contribution**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-033

A RESOLUTION ACCEPTING THE WORK BY DELTA OILFIELD SERVIES,INC FOR THE PROJECT TITLED "3200 NIGHTINGALE DRIVE – BUILDING DEMOLITION" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $15,750.00

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the project titled "3200 Nightingale Drive – Building Demolition" has been completed by Delta Oilfield Services, Inc. in accordance with the contract agreement dated October 27, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "3200 Nightingale Drive – Building Demolition" is hereby accepted as complete from said contractor Delta Oilfield Services, Inc. that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $15,750.00 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-034

A RESOLUTION APPROVING AN AGREEMENT WITH ECOLOGIC FOR FINAL DESIGN SERVICES FOR DRINKING WATER SUPPLY AT THE JENNINGS WASTEWATER TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED $90,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,000 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $99,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Secondary Treatment Facility is located at 7007 Jennings Road, and

WHEREAS, the Secondary Treatment Facility was utilizing four separate water wells for drinking and other potable purposes, and

WHEREAS, on July 17, 2008, the City received a Citation and Notice of Penalty from the State of California, Division of Occupational Safety and Health, for non-potable water being used for drinking, eating, washing dishes and showering at the end of a work shift, and

WHEREAS, each of the four wells had different levels of arsenic, uranium and manganese that exceed maximum contaminate levels (MCLs), and

WHEREAS, on November 5, 2008, by Resolution No. 2008-623, the City Council approved an agreement with EcoLogic for consultant services to test water at all four wells, determine a solution and write a technical report, and

WHEREAS, all four wells tested positive for contamination, and

WHEREAS, none of the exiting four wells was determined worth the expense of rehabilitation, and

WHEREAS, an exploratory test hole was drilled approximately 200 feet deeper than the existing wells, and

WHEREAS, good water in both quality and quantity was found, and

WHEREAS, a final underground well was installed sealing off the upper contaminated water layers, and

WHEREAS, a Technical Report and Drinking Water Source Assessment dated October 19, 2009, was completed and is currently under review by the State Department of Public Health, and

WHEREAS, final design of the above-ground pump station, storage facility, and distribution piping remains to be completed, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, EcoLogic was the most qualified for the initial phase of the design, and

WHEREAS, City staff now feels that EcoLogic remains the most qualified firm to continue the project through final design, and

WHEREAS, City staff recommends approving a new agreement with EcoLogic for final project design as the City does not have the staffing level or subject matter expertise to provide design services for final design of the project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with EcoLogic for final design services for Drinking Water Supply at the Jennings Wastewater Treatment Plant project in an amount not to exceed $90,000 for the identified scope of services, plus $9,000 for additional services (if needed), for a maximum total amount of $99,000.

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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-035

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR-TERTIARY WASTEWATER TREATMENT PROJECT," ACCEPTING THE BID AND APPROVING A $1,701,331 SUPPLIER AGREEMENT WITH TROJAN TECHNOLOGIES FOR THE "UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR-TERTIARY WASTEWATER TREATMENT PROJECT," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUPPLIER AGREEMENT

WHEREAS, plans and specifications have been prepared for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project and City staff recommends approval by the City Council, and

WHEREAS, City staff and the design consultant, Carollo Engineers, reviewed the qualifications submitted on November 10, 2009, and determined Trojan Technologies was qualified to build and supply the UV Disinfection Equipment for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the bids received for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project were opened at 11:00 a.m. on November 17, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $1,701,331 received from Trojan Technologies be accepted as the lowest responsible bid and the supplier agreement be awarded to Trojan Technologies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project, accepts

the bid of Trojan Technologies in the amount of $1,701,331, and approves the supplier agreement with Trojan Technologies for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-036

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE SUPPLIER AGREEMENT FOR THE UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT, INCLUDING ASSOCIATED VENDOR ENGINEERING DESIGN SUPPORT, AND ENGINEERING / DESIGN / ADMINISTRATION SUPPORT BY CITY STAFF FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $1,796,398, in order to fully fund the supplier agreement along with associated vendor engineering design support, and engineering/design/administration by City staff for the UV Disinfection Equipment System Procurement for Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund-CIP

EXPENDITURES:		Increase/(Decrease)
Wastewater Fund Reserves	6210-800-8000-8003	($1,796,398)
WW Treatment Phase 2 Tertiary	6210-430-B061-6040	$1,701,331
WW Treatment Phase 2 Tertiary	6210-430-B061-6050	$85,067
WW Treatment Phase 2 Tertiary	6210-430-B061-6060	$10,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-037

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT," ACCEPTING THE BID AND APPROVING A $10,452,745 SUPPLIER AGREEMENT WITH SIEMENS WATER TECHNOLOGIES CORP. FOR THE "MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUPPLIER AGREEMENT

WHEREAS, plans and specifications have been prepared for the Membrane Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project and City staff recommends approval by the City Council, and

WHEREAS, City staff and the design consultant, Carollo Engineers, reviewed the qualifications submitted by one bidder on November 3, 2009, and determined Siemens Water Technologies Corp. was qualified to build and supply the Membrane Bioreactor (MBR) Equipment for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the sole bid received for the Membrane Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project was opened at 11:00 a.m. on November 12, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $10,452,745 received from Siemens Water Technologies Corp. be accepted as the lowest responsible bid and the supplier agreement be awarded to Siemens Water Technologies Corp.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Membrane Equipment System

Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project, accepts the bid of Siemens Water Technologies Corp. in the amount of $10,452,745, and approves the supplier agreement with Siemens Water Technologies Corp. for the Membrane Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-038

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE SUPPLIER AGREEMENT FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT, INCLUDING ASSOCIATED VENDOR ENGINEERING DESIGN SUPPORT, AND ENGINEERING / DESIGN / ADMINISTRATION SUPPORT BY CITY STAFF FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $11,000,382, in order to fully fund the supplier agreement along with associated vendor engineering design support, and engineering/design/administration by City staff for the Membrane Equipment System Procurement for Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund-CIP

EXPENDITURES:		Increase/(Decrease)
Wastewater Fund Reserves	6210-800-8000-8003	($11,000,382)
WW Treatment Phase 2 Tertiary	6210-430-B061-6040	$10,452,745
WW Treatment Phase 2 Tertiary	6210-430-B061-6050	$522,637
WW Treatment Phase 2 Tertiary	6210-430-B061-6060	$25,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-039

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS PROJECT

WHEREAS, a budget adjustment in the amount of $2,889,225 is necessary to fully fund the construction activities for the American Recovery and Reinvestment Act of 2009 funded Street Overlay and ADA Curb Ramp Improvements project along with contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended, as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget, as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, 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:	Geer, Hawn, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Lopez

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

ARRA Reimbursable Grant – PW Streets

REVENUES:

ARRA Reimbursable Grant – PW Streets	0530-430-H014-3650-53	$2,889,225

EXPENDITURES:		Increase/(Decrease)
ARRA Street Overlay & ADA Curb Ramp Imprv	0530-430-H014-6040	$2,407,687
ARRA Street Overlay & ADA Curb Ramp Imprv	0530-430-H014-6050	$240,769
ARRA Street Overlay & ADA Curb Ramp Imprv	0530-430-H014-6060	$240,769

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-040

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND COSTA LIMITED PARTNERS, A CALIFORNIA LIMITED PARTNERSHIP, PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE, EAST OF CHAPMAN ROAD (JOHN J. JOHANNSON)

WHEREAS, on January 4, 2000, the City Council approved Ordinance No. 3168-C.S., a Development Agreement by and between the City of Modesto and Costa Limited Partners, A California Limited Partnership ("Development Agreement") which includes provisions regarding the development of the site, processing of future entitlements, payment of fees and taxes, installation of public infrastructure, and implementation of environmental mitigation measures, and

WHEREAS, the subject property formerly owned by Costa Limited Partners, A California Limited Partnership, has changed ownership and is now owned by Pelandale Development LLC, and

WHEREAS, John Johansson on behalf of Pelandale Development LLC is proposing the first amendment to Ordinance No. 3168- C.S, a Development Agreement between the City of Modesto and Costa Limited Partners, A California Limited Partnership, in order to extend the term of the Development Agreement to May 17, 2021, and

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

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

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-27 ("Initial Study") reviewed the proposed Development Agreement Amendment to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 6, 2010, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 26, 2010, 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 First Amendment to the Development Agreement between the City of Modesto and Pelandale Development LLC, a California limited liability company, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

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

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2009-27

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2009-27

For the proposed:

P-D (540) Planned Development Amendment and Development Agreement Amendment

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

9-16-2009

Updated: October 2008

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Fire Station No. 2 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: P-D (540) Planned Development Amendment and Development Agreement Amendment

B. Address or Location: Northeast Corner of Pelandale Ave. and Chapman Rd.

C. Applicant: John Johannson, 7807 Creekridge Circle, Minneapolis, MN, 55439

D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5302
E-mail address: Dwage@modestogov.com

E. Current General Plan Designation(s): Regional Commercial (RC)

F. Current Zoning Classification(s): Planned Development (540)

G. Surrounding Land Uses:
North: MID Lateral
South: P-D(537), Regional Commercial development
East: Existing well drilling company, planned professional office

West: P-D(540), Regional Commercial development

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

The project site is approximately 9.65 acres in size, which constitutes the northern half of the property at the northeast corner of Pelandale Ave and Chapman Rd. To the north is MID Lateral No. 6 and to the east is agriculture land. To the west, across Chapman Road, are existing commercial businesses and to the south is P-D(537).

On December 16, 1999, the City Council adopted Resolution No. 99-626, approving a development plan for P-D(540) consisting of a movie theater complex. The Council also approved a Development Agreement, which remains in effect until May 17, 2011. P-D(540) consists of a 17-screen, 80,000-square-foot theater with associated parking and landscaping.

The subject application is for a revised development plan to allow three retail buildings totaling 110,000 sf. In addition, the applicant has applied for a revised development schedule and a ten year extension of the development agreement, which would require building permits to be obtained no later than May 17, 2021.

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

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

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

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

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

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD	**Associate Planner**	**November 12, 2009**
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

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

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

5. Currency of the Master EIR Document

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

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐

(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	[ ]	[ ]	[ ]	[X]
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ ]	[ ]	[X]
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	[ ]	[ ]	[ ]	[X]
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	[ ]	[ ]	[ ]	[X]
7) The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in	[ ]	[ ]	[ ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
excess of that considered in the Urban Area General Plan.				

Discussion:

(1 & 3) The project applicant performed a Traffic Access Analysis (prepared by Dowling and Associates dated October 20, 1999) for the proposed movie theatre. Dowling and Associates also compared the traffic impacts of the development with those analyzed in the MEIR and Focused EIR. According to the analysis the development will result in a lower traffic generation than what was assumed in the MEIR. City Traffic Staff reviewed the traffic study and determined the revised development plan that includes retails uses will not cause changes in traffic resulting in a significant impact. The Mitigation measures appropriate to the project were previously incorporated into the conditions of approval.

(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.

(4) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(5) The project has been evaluated for compliance to the City of Modesto Parking regulations.

(6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.

(7) The proposed project is would not result in an increase in energy consumption in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

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

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

Discussion:

The appropriate mitigation to be applied to this project includes AQ-40 and AQ-42 through AQ-56 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	[ ]	[ ]	[ ]	[X]
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would expose sensitive	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.				
5) The proposed project would create objectionable odors affecting a substantial number of people.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The land uses proposed are not in themselves significant contributors to air pollution levels and therefore the primary source of air pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

Cumulative Impacts

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

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

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

Discussion:

There mitigation to be applied to this project includes N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
General Plan.				

Discussion:

(1) The project will not exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the previously approved conditions of approval for the project (City Council Resolution No. 99-339 and Resolution No. 99-626).

(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 measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	[ ]	[ ]	[ ]	[X]
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	[ ]	[ ]	[ ]	[X]
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	[ ]	[ ]	[ ]	[X]
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	[ ]	[ ]	[ ]	[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. The site is currently vacant and no agricultural land will be converted for the development of the proposed projects.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

(3) 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 General Plan designates the property as Regional Commercial. The adjacent property to the west is designated for professional office and the properties to the east are designated as Regional Commercial.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the water supply policies in the General Plan.

(2) The project was referred to Land Development Engineering Staff who determined the water proposed development will not exceed estimates or water supplies for needed to serve other entitlements and resources.

(3) The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains

and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Increased Demand for Sanitary Sewer Services				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in a	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.				

Discussion:

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

(2) The project is consistent with the Regional Commercial General Commercial designation and will generate sewer flows within what was anticipated for the project site.

(3) The project was referred to Land Development Engineering Staff who determined there is adequate capacity to accommodate the proposed development in addition to existing commitments.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	[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 a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	[ ]	[ ]	[ ]	[X]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
conservation plan.				

Discussion:

(1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.

(5) There is no conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes the measures listed in MEIR Table V-8-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the archeological and historical resource policies in the General Plan.

(2 & 3) There are no existing structures on the project site.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the storm drain policies in the Urban Area General Plan.

(2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures."

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	[ ]	[ ]	[ ]	[X]
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	[ ]	[ ]	[ ]	[X]
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	[ ]	[ ]	[ ]	[X]
6) The proposed project would violate water quality standards or waste discharge requirements.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project is not located within a 100-year flood plain and is limited to commercial uses.

(4) The project is not located within a 100-year flood plain.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(6) The project will not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The project is on a vacant site designated for Regional Commercial development. The project would not eliminate an existing park or designated open space.

(3) The project is designated for Regional Commercial development and would not cause an increase in the use of existing neighborhood and regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project or the development agreement time extension.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) This project was referred to the County and Solid Waste Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous	[ ]	[ ]	[ ]	[X]

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

Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(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 would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in energy	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.				

Discussion:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) The Stanislaus River is located over two miles from the subject property. The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the Regional Commercial land use designation in the General Plan.

(2) The project would not divide an established community. The area to the north of the commercial site is in production as agricultural land while the area to the south of the site is commercial.

(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[X]	[ ]
3) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Regional Commercial. The proposed development is consistent with the Commercial designation in terms of land-use and intensity. Therefore the proposed Development Agreement to allow business park development is consistent with the 2008 General Plan.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for

lighting, heating, cooling and other activities. The primary source of CO_2 emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO_2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

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

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

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

Traffic and Circulation:

None.

Degradation of Air Quality:

AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate

emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

AQ-51: Limit traffic speeds on unpaved roads to 15 mph; and

AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

AQ-54: Install wind breaks at windward side(s) of construction areas.

AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

Generation of Noise:

N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

Effects on Agricultural Lands:

None.

Increased Demand for Long-Term Water Supplies:

None.

Increased Demand for Sanitary Sewer Services:

None.

Loss of Sensitive Wildlife and Plant Habitat:

None.

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Increased Demand for Storm Drainage:

None.

Flooding and Water Quality:

None.

Increased Demand for Parks and Open Space:

None.

Increased Demand for Schools:

None.

Increased Demand for Police Services:

None.

Increased Demand for Fire Services:

None.

Generation of Solid Waste:

None.

Generation of Hazardous Materials:

None.

Geology, Soils, and Mineral Resources:

None.

Energy:

None.

Effects on Visual Resources:

None.

Land Use and Planning:

None.

Climate Change:

None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-041

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO MEDIUM DENSITY RESIDENTIAL ZONE, R-2, PROPERTY LOCATED AT 3401 CARVER ROAD. (TLB INVESTMENTS)

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

WHEREAS, Robert Braden Consulting on behalf of TLB Investments has proposed that the zoning designation for the property located on the west side of Carver Road south of Standiford Avenue, be amended to rezone from Low Density Residential Zone, (R-1), to Medium Density Residential Zone, (R-2), and

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

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-28 ("Initial Study") reviewed the proposed rezone from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2 to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and

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

WHEREAS, in accordance with CEQA guidelines beginning on January 6, 2010 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 26, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezoning from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

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

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2009-28

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2009-28

For the proposed:

P-RZN-09-001
Rezone R-1 to R-2

3401 Carver Road
APN: 054-051-001

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

November 13, 2009

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether **RZN-08-002, Rezone R-1 to P-O** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: RZN-09-001, Rezone R-1 to R-2

B. Address or Location: West Side of Carver Road South of Standiford Avenue, Modesto, CA 95350

C. Applicant: TLB Investments

D. City Contact Person: Rita Doscher, Associate Planner

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

E. Current General Plan Designation(s): R, Residential

F. Current Zoning Classification(s): R-1, Low Density Residential

G. Surrounding Land Uses:
- North: P-D(451) Standiford Plaza Commercial and Professional offices
- South: P-D(549) R-2, Medium Density Residential Apartments
- East: R-2, Medium Density Residential and P-D(450) Residential Condominiums
- West: R-1, Single Family Residential homes

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant proposes to rezone the existing 0.51 acre Low Density Residential (R-1) zoned lot into a Medium Density Residential (R-2) lot. The applicant has indicated that the proposed rezoning of the parcel would bring the parcel into conformance and compatibility with the surrounding uses and zones.

I. Other Public Agencies Whose Approval is Required:

None

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

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

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

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	Associate Planner	November 13, 2009
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

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

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

5. Currency of the Master EIR Document

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

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

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

TRAFFIC AND CIRCULATION		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☒	☐	☐
(2)	The proposed project would substantially increase hazards due to a design feature, such as sharp curves, or the development of incompatible uses in close proximity to one another.	☒	☐	☐
(3)	The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☒	☐	☐

(5)	The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☒	☐	☐
(6)	The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☒	☐	☐
(7)	The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.	☒	☐	☐

Discussion:

The City has reviewed the project and determined that the project is within the scope of the Master EIR and no further traffic study is required.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

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

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

Discussion:

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

c. Project-Specific Effects

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

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

DEGRADATION OF AIR QUALITY

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☒	☐	☐
(2)	The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☒	☐	☐
(3)	The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☒	☐	☐
(4)	The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☒	☐	☐
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

GENERATION OF NOISE				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☒	☐	☐
(2)	The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☒	☐	☐

(3)	The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future

agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

c. Project-Specific Effects

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

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

SIGNIFICANT EFFECTS IDENTIFIED IN THE MASTER EIR

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☒	☐	☐
(2)	The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☒	☐	☐
(3)	The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☒	☐	☐
(4)	The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☒	☐	☐
(2)	Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☒	☐	☐
(3)	The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

INCREASED DEMAND FOR SANITARY SEWER SERVICES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the policies in the Modesto Urban Area General Plan.	☒	☐	☐
(2)	The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☒	☐	☐
(3)	The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

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

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

c. Project-Specific Effects

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

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

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☒	☐	☐
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☒	☐	☐
(3)	The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☒	☐	☐
(5)	Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☒	☐	☐
(6)	The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a R, Residential area which accommodates the type of rezone proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the surrounding zonings of the site. The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes AH-9 and AH-10 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would modify a historic resource, resulting in a substantial adverse change in its significance or would demolish a listed or eligible historic resource.	☒	☐	☐
(3)	The proposed project would modify or demolish a structure more than 50 years in age.	☒	☐	☐
(4)	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.	☒	☐	☐
(5)	The project site is in a riparian zone (see Figure V-7-1 in the MEIR), where archaeological resources are most likely to be discovered, or is otherwise located in an area of high archaeological sensitivity.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The proposed project would not modify a historic resource, resulting in a substantial adverse change in its significance or would demolish a listed or eligible historic resource. The parcel has an existing residential dwelling, two garages, storage and outbuildings on site.

(3) The proposed project would not modify or demolish a structure more than 50 years in age as the project is for the purpose of rezoning the parcel from R-1 to R-2 Zone.

(4) 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.

(5) The project site is not in the riparian zone.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes 5D-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR STORM DRAINAGE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☒	☐	☐

(3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☒	☐	☐
(3)	The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☒	☐	☐
(4)	The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☒	☐	☐
(5)	The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☒	☐	☐
(6)	The proposed project would violate water quality standards or waste discharge requirements.	☒	☐	☐
(7)	The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☒	☐	☐
(8)	The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no mitigation measures applied to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR PARKS AND OPEN SPACE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would eliminate parks or open space.	☒	☐	☐
(3)	The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these polcies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR SCHOOLS				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR POLICE SERVICES				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan	☒	☐	☐

or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

INCREASED DEMAND FOR FIRE SERVICES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☒	☐	☐
(3)	The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

GENERATION OF SOLID WASTE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the solid waster policies in the Urban Area General Plan.	☒	☐	☐
(2)	The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

GENERATION OF HAZARDOUS MATERIALS

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☒	☐	☐
(3)	The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☒	☐	☐
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

(3) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

ENERGY

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

EFFECTS ON VISUAL RESOURCES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☒	☐	☐
(3)	The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☒	☐	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

LAND USE AND PLANNING

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.		☒	☐
(2)	The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.		☒	☐
(3)	The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.		☒	☐
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.		☒	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The project is infill development which will not divide an established community.

(3) The proposed project does not represent a conflict with any land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.

(4) The proposed project is not subject to any habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

CLIMATE CHANGE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.		☒	☐
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.		☒	☐
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.		☒	☐

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

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

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

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

Traffic and Circulation:

None

Degradation of Air Quality:

None

Generation of Noise:

None

Effects on Agricultural Lands:

None

Increased Demand for Long-Term Water Supplies:

None

Increased Demand for Sanitary Sewer Services:

None

Loss of Sensitive Wildlife and Plant Habitat:

None

Disturbance of Archaeological/Historic Sites:

None

Increased Demand for Storm Drainage:

None

Flooding and Water Quality:

None

Increased Demand for Parks and Open Space:

None

Increased Demand for Schools:

None

Increased Demand for Police Services:

None

Increased Demand for Fire Services:

None

Generation of Solid Waste:

None

Generation of Hazardous Materials:

None

Geology, Soils, and Mineral Resources:

None

Energy:

None

Effects on Visual Resources:

None

Land Use and Planning:

None

Climate Change:

None

RESCINDED Print

JUN - 7 2016

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-223

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-042

A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES NO. 2009-1 (KIERNAN BUSINESS PARK EAST), AUTHORIZING THE LEVY OF SPECIAL TAXES THEREIN AND ESTABLISHING ANNUAL APPROPRIATIONS LIMIT

WHEREAS, on December 14, 2009, pursuant to a petition filed by Chopra Development Enterprises, Inc., a California Corporation (the "Petitioner") this City Council, by Resolution No. 2009-575, adopted a resolution (the "Resolution of Intention") stating its intention to form City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), 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 December 14, 2009, the City Council, by Resolution No. 2009-575, adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed $40,000,000 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 the cost of engineering, planning and designing the facilities, and 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 $40,000,000, 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 and services as required by Section 53321.5 of the Government Code (the "Report"), and

WHEREAS, the City Council held a public hearing on Tuesday, January 26, 2010, 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 (12) 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. 2009-1 (Kiernan Business Park East)" is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District and the proposed future annexation areas to the Community Facilities District are established as shown on the map designated "Boundary Map of Proposed City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East)," 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. 32, at Page 25, as Instrument No. 2009-0120360-00.

Parcels within the future annexation areas shall be annexed to the Community Facilities District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the "Facilities" in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the "Services").

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in **Attachment A** hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (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 annual facilities 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 Administrator, Infrastructure Financing Programs, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in **Attachment A**, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt 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 $40,000,000.

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 January 26, 2010. 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 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2009-1(Kiernan Business Park East) [herein "CFD No. 2009-1" or the "CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2009-1, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2009-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2009-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

"Annual Facilities Special Tax Requirement" means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds; (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year; (iii) create or replenish reserve funds; (iv) cure any delinquencies in the payment of principal

or interest on indebtedness of CFD No. 2009-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected; and (v) construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2009-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to: (i) pay for Authorized Services; (ii) pay Administrative Expenses that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year; (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year; and (iv) pay debt service on Bonds to the extent permitted in the Bond documents.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Facilities" means those facilities that are authorized to be funded by CFD No. 2009-1.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2009-1.

"Bonds" means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured, or assumed by CFD No. 2009-1 related to Authorized Facilities.

"Business Park Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will be a part of a campus-like environment for office, light production, or warehouse uses in high quality single- or multiple-occupant buildings. Business Park Property may include development focused primarily on research, product development, professional office, or limited manufacturing and distribution land uses, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Capitalized Interest" means funds in any capitalized interest account available to pay debt service on Bonds.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2009-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2009-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, "Developed Property" means:

- for Single Family Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,
- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, "Developed Property" means:

- for Single Family Property, all Parcels for which a building permit for construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,
- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

"Development Plan" means an apartment plan, site plan, or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Multi-Family Property.

"Expected Land Uses" means the Units of Single Family Property, Acres of Multi-Family Property, and Acres of Non-Residential Property expected to be developed within CFD No. 2009-1 at the time of CFD Formation.

"Expected Maximum Annual Facilities Special Tax Revenues" means the amount of annual revenue, conservatively estimated by the Administrator, that would be available from Expected Land Uses if the Maximum Annual Facilities Special Tax was levied. The Expected Maximum Annual Facilities Special Tax Revenues at the time of CFD Formation is shown in Attachment 1.

"Final Map" means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Hotel Property" means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that constitutes a place of lodging providing sleeping accommodations and related facilities for travelers, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Land Use Class" means one of the seven mutually-exclusive land use classes of Developed Property identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.

"**Maximum Annual Facilities Special Tax"** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"**Maximum Annual Maintenance Special Tax"** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"**Maximum One-Time Facilities Special Tax"** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means any Parcel of Developed Property for which a building permit was issued for construction of a residential structure consisting of apartment Units, as

determined by the Administrator using reasonable and established City zoning and other land use standards.

"Net Taxable Acreage" or **"Net Taxable Acre"** means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by a subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"Non-Residential Property" means, collectively, Business Park Property, Office Property, Retail Property, Hotel Property, and Other Property.

"Office Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will be divided primarily into individual offices (including cubicles or other modular office space) for use by companies to conduct business, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"One-Time Facilities Special Tax" means a Special Tax levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"One-Time Facilities Special Tax Requirement" means the amount determined by the City that is needed to pay facility costs authorized to be funded by CFD No. 2009-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

"Other Property" means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that is not Business Park Property, Office Property, Retail Property, or Hotel Property.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year, respectively, is equal for all Assessor's Parcels of Developed Property. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax, respectively, is equal for all Assessor's Parcels of Undeveloped Property.

"Public Property" means any property within the boundaries of CFD No. 2009-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Retail Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will include primarily commercial establishments which sell general merchandise, hard goods, personal services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores, restaurants, bars, banks, repair shops, movie theaters, day care centers, and art galleries, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Single Family Attached Property" means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel numbers assigned to them, and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

"Single Family Detached Property" means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a Unit that does not share a common wall with another Unit.

"Single Family Property" means, collectively, Single Family Attached Property and Single Family Detached Property.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Square Foot," "Square Footage," or **"Square Feet"** means the floor area square footage reflected on the original construction building permit issued for construction of a building of Non-Residential Property and any Square Footage subsequently added to a building of such Taxable Property after issuance of a building permit for expansion or renovation of such building.

"Subdivision Map" means a Final Map, Development Plan, large lot subdivision map, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2009-1 which are not exempt from the Special Tax pursuant to law or Section H below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2009-1 that: (i) based on a tentative map or other Subdivision Map, were expected to be Taxable Property; and (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public

Property based on a tentative map or other Subdivision Map are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2009-1 that are not Developed Property.

"Unit" means: (i) for Single Family Property, an individual single-family unit; and (ii) for Multi- Family Property, an individual unit within an apartment structure.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property; (ii) for Developed Property, which Parcels are Single Family Property, Multi-Family Property, and Non- Residential Property; (iii) the Acreage and number of Units for each Parcel of Multi-Family Property; (iv) the Acreage and Square Footage of each Parcel of Non-Residential Property, and (v) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement. In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2009-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2009-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

1. Maximum Special Taxes

The Maximum Special Taxes set forth in Table 1 below shall be used for purposes of calculating the Maximum Special Taxes for all Parcels of Taxable Property. The Maximum Special Tax for any Parcel of Developed Property shall be the per-Unit, per Square Foot, or per-Net Taxable Acre amount that produces the greatest Special Tax revenue.

Table 1
Maximum Special Taxes
Fiscal Year 2009-10 *

Land Use Class	Maximum One-Time Facilities Special Tax		Maximum Annual Facilities Special Tax		Maximum Annual Maintenance Special Tax	
	Per Unit or Per Square Foot	*Per Net Taxable Acre*	*Per Unit or Per Square Foot*	*Per Net Taxable Acre*	*Per Unit or Per Square Foot*	*Per Net Taxable Acre*
Single Family Property	$14,634 per Unit	N/A	$1,312 per Unit	N/A	$297 per Unit	N/A
Multi-Family Property	$0 per Unit	$0	$586 per Unit	$14,206	$218 per Unit	$5,283
Business Park Property	$14.00 per Square Foot	$243,850	$0.36 per Square Foot	$6,271	$0.07 per Square Foot	$1,209
Office Property	$21.54 per Square Foot	$833,836	$0.48 per Square Foot	$18,579	$0.03 per Square Foot	$1,209
Retail Property	$22.52 per Square Foot	$873,208	$0.54 per Square Foot	$20,940	$0.03 per Square Foot	$1,209
Hotel Property	$13.64 per Square Foot	$528,909	$0.47 per Square Foot	$18,220	$0.03 per Square Foot	$1,209
Other Property	$22.52 per Square Foot	$873,208	$0.54 per Square Foot	$20,940	$0.07 per Square Foot	$1,209
Undeveloped Property	N/A	N/A	N/A	$20,940	N/A	$5,283

**** All Maximum Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below. N/A means not applicable.***

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Taxes levied on and Assessor's Parcel shall be the sum of the Maximum Special Taxes for all Units of Single Family Property and the Maximum Special Taxes calculated for Multi-Family Property and Non-Residential Property (based on the applicable Final Map,

parcel map, Development Plan, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2010 and each January thereafter, the Maximum One-Time Facilities Special Taxes shown in Table 1 shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Facilities Special Tax

Beginning with Fiscal Year 2010-11, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Taxes shown in Table 1 shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2010 and each January thereafter, the Maximum Annual Maintenance Special Taxes shown in Table 1 shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. BACK-UP FORMULA

Each time a new or revised Subdivision Map ("Land Use/Entitlement Change") is proposed any time after the City has issued Bonds, the Administrator shall recalculate the Expected Maximum Annual Facilities Special Tax Revenues based on the proposed Land Use/Entitlement Change. If the proposed Land Use/Entitlement Change will reduce debt service coverage on outstanding Bonds below the amount committed to in the Bond documents, then, before approval of the Land Use/Entitlement Change, the landowner requesting the Land Use/Entitlement Change shall prepay to the City an amount that corresponds to the lost Maximum Annual Facilities Special Tax revenue, as determined by applying the steps set forth in Section I below to prepay the Annual Facilities Special Tax. Any such prepayment shall be used by the City to call Bonds.

F. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2009-1 and shall be collected as set forth in Section G below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2009-1 as follows:

Step 1: The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Annual Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

Step 2: If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

G. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2009-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2009-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that prepayments are permitted as set forth in Section I below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

H. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels.

I. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section I:

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

"Previously Issued Bonds" means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

"Public Facilities Requirements" means either $6,500,000 in 2009 dollars, which shall increase on January 1, 2010, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2009-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

"Remaining Facilities Costs" means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor's Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows (capitalized terms as defined below):

Bond Redemption Amount	
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
less	Reserve Fund Credit
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

Step 1. Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

Step 2. Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD in the Fiscal Year in which the prepayment would be received by the City.

Step 3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the *"**Bond Redemption Amount**"*).

Step 4. Compute the current Remaining Facilities Costs (if any).

Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the *"**Remaining Facilities Amount**"*).

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the *"**Redemption Premium**"*).

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8: Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after

which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the ***"Defeasance Requirement"***).

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the ***"Administrative Fees and Expenses"***).

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the ***"Reserve Fund Credit"***).

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the ***"Prepayment Amount"***).

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

K. ENFORCEMENT

All delinquent Annual Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes, billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

Expected Land Uses and Expected Maximum Annual Facilities Special Tax Revenues

Land Use Class	Expected Number of Units/Acres	Maximum Annual Facilities Special Tax per Unit/Acre FY 2009-10 [1]	Expected Maximum Annual Facilities Special Tax Revenues FY 2009-10 [1]
Single Family Property	262 Units	$1,312 per Unit	$343,740
Multi-Family Property	3.3 Acres	$14, 206 per Acre	$46,880
Business Park Property [2]	0.0 Acres	$6,271 per Acre	$0
Office Property	2.3 Acres	$18,579 per Acre	$43,200
Retail Property	9.3 Acres	$20,940 per Acre	$194,400
Hotel Property	4.4 Acres	$18,220 per Acre	$79,900
Expected Maximum Annual Facilities Special Tax Revenues at CFD Formation $708,120 (Fiscal Year 2009-10 $)			

[1] On July 1, 2010, and each July 1 thereafter, the Maximum Annual Facilities Special Tax and Expected Maximum Annual Facilities Special Tax Revenues shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. Revenues may not be exact due to rounding.

[2] All Business Park Property is expected to annex to CFD No. 2009-1 after CFD Formation. At such time as annexations occur, the Administrator shall update this Attachment 1 to reflect the expected Acreage and Expected Maximum Annual Facilities Tax Revenues associated with the annexed property.

ATTACHMENT B

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

ATTACHMENT B

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, 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, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES_____

NO_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-043

A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

WHEREAS, on this date, this City Council adopted a resolution entitled "A Resolution Establishing City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East), 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. 2009-1 (Kiernan Business Park East) (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. 2009-1 (Kiernan Business Park East)," which declared the necessity to incur bonded indebtedness in the maximum amount of $40,000,000, 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. 2009-1 (Kiernan Business Park East), 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 January 26, 2010, 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 5:30 p.m. on January 26, 2010; 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 5:30 p.m. on January 26, 2010, 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 each qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

OFFICIAL BALLOT

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

January 26, 2010

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 5:30 p.m. on January 26, 2010, 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. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, 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, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES_____

NO_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-044

A RESOLUTION DECLARING THE RESULTS OF THE JANUARY 26, 2010, SPECIAL ELECTION AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District"), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on January 26, 2010, 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 $40,000,000, (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. 2009-1 (Kiernan Business Park East), 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 January 26,

2010, 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 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A

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. 2009-1 (Kiernan Business Park East) (the "Community Facilities District"). With my concurrence, the election was conducted on January 26, 2010. 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 January 26, 2010, or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: __

NO: __

TOTAL NUMBER OF VOTES CAST: ____

Dated this 26th day of January, 2010.

_____

Stephanie Lopez,
City Clerk of the City of Modesto

Print

RESCINDED

JUN - 7 2016

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-223

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-045

A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

WHEREAS, on December 14, 2009, pursuant to a petition filed by Chopra Development Enterprises, Inc., a California Corporation, this City Council adopted Resolution No. 2009-576 (the "Resolution of Intention to Establish") stating its intention to establish the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), 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 December 14, 2009, the City Council also adopted Resolution No. 2009-577 stating its intention to incur bonded indebtedness in an amount not to exceed $40,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Resolution of Intention to Establish, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including (a) the cost of engineering, planning and designing the Facilities; (b) all costs incurred in connection with financing the Facilities, and (c) all costs associated with the creation of the Community Facilities

District, the issuance of bonds by the Community Facilities District, the establishment and replenishment of bond reserve and special reserve funds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District and administering the Community Facilities District (collectively, the "Incidental Expenses"), 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 $40,000,000 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. 2009-1 (Kiernan Business Park East), 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 $40,000,000 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 January 26, 2010. 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 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A

ATTACHMENT A

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, 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, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES_____

NO_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-046

RESOLUTION APPROVING AN APPLICATION FOR $3,174,344 IN PROPOSITION 1B PHASE II FUNDS FROM THE STATE OF CALIFORNIA FOR LOCAL STREET AND ROAD PROJECTS

WHEREAS, Proposition 1B (Prop 1B) provides $19.925 billion in bond funds for a variety of transportation priorities, including $2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities, and

WHEREAS, funds were to be distributed in two phases, and

WHEREAS, in 2008, the City was eligible for and received $3,364,421 for Phase I funding based on population, and

WHEREAS, the City is now eligible to receive $3,174,344 in Phase II funding, and

WHEREAS, each city must submit a list of projects, expected to be funded with Prop 1B funds to the State of California, Department of Finance, before an allocation is made, and

W HEREAS, the street and road paving list submitted to the State of California, Department of Finance, is flexible and substitutions are allowed to respond to local priorities, and

WHEREAS, the list of projects must include the following:

- A description and location of the proposed project
- A proposed schedule for the project's completion
- The estimated useful life of the Capital Improvement

WHEREAS, for eligibility, all projects included on the project list submitted to the State of California, Department of Finance, must also be included in the City's budget that has been adopted by the Council at a regular public meeting, and

WHEREAS, the Proposition 1B Implementation Plan has a three-year, use-it-or-lose-it stipulation, which means all Proposition 1B Local Streets and Roads Account funds appropriated in FY 2009-10 must be expended by June 30, 2013, and

WHEREAS, cities can use Proposition 1B funds immediately for improvements to local transportation facilities that will repair and rehabilitate local streets and roads, reduce local traffic congestion, improve traffic flow, or increased traffic safety,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of an application for $3,174,344 in Proposition 1B Phase II funds from the State of California for the local street and road improvement projects shown on **Attachment 1**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010 by Councilmember Marsh, who moved its adoption, which motion be duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Proposition 1B - Phase II
Local Streets and Roads Paving Project
Fiscal Years 10-11, 11-12, 12-13

Street	From	To	Width	Length	Sq. Ft.	Est. Cost	Ln. Miles	Marking	Loops	Total	Completion Date	Useful Life	Category
Tuolumne Blvd.	W/ of Neece Dr.	E/ of Roselawn	68	1,586	107,848	469,139	1.50	4,800	5,850	479,789	6/30/2013	15 Yrs	Major Project
Kansas Ave.	W/ of Carpenter Rd.	Rosemore Ave.	30	2,750	82,500	358,875	1.04	2,400	4,550	365,825	6/30/2013	15 Yrs	Maintenance
Needham Ave.	E/ of College Ave.	W/ of L Street	61	2,324	141,764	616,673	1.32	7,200	18,200	642,073	6/30/2013	15 Yrs	Major Project
B Street	E/ of 9th Street	W/ of 12th Street	42	1,092	45,864	199,508	1.03	4,800	4,550	208,858	6/30/2013	15 Yrs	Maintenance
Kingswood Dr.	N/ of Sylvan Ave.	W/ of Forrest Glen Dr.	37	627	23,199	71,917	0.36	0	0	71,917	6/30/2013	15 Yrs	Maintenance
Forest Glen Dr.	N/ of Sylvan Ave.	S/ of Sylvan Meadows	37	1,228	45,436	140,852	0.70	0	0	140,852	6/30/2013	15 Yrs	Maintenance
San Juan	N/ of Yosemite	S/ of Miller Ave.	37	550	20,350	63,085	0.21	0	3,250	66,335	6/30/2013	15 Yrs	Maintenance
Penny Ln.	Pirinen	170' to the West	34	170	5,780	17,918	0.06	0	0	17,918	6/30/2013	15 Yrs	Maintenance
Oakdale Rd.	N/ of Scenic Dr	S/ of Wylie Dr.	67	1,776	118,992	517,615	2.02	7,200	28,600	553,415	6/30/2013	15 Yrs	Major Project
Semple St.	N/ of Jones St.	S/ of Morris Ave.	27	1,590	42,930	133,083	0.60	0	0	133,083	6/30/2013	15 Yrs	Maintenance
Hatch Rd.	E/ of Dallas Rd.	E/ of Ustick rd.	40	3,365	134,600	417,260	2.55	4,800	14,300	436,360	6/30/2013	15 Yrs	Major Project
East Rumble Rd	E/ of Coffee Rd.	W/ of Keller st.	37	1,642	60,754	188,337	0.62	2,400	3,900	194,637	6/30/2013	15 Yrs	Maintenance
Whitmore Ave.	W/ of Tucson	To end of city limit	14	3,750	52,500	228,375	1.42	4,800	0	233,175	6/30/2013	15 Yrs	Maintenance
G Street	E/ of 9th Street	W/ of Burney	47	3,424	160,928	700,037	1.95	12,000	23,400	735,437	6/30/2013	15 Yrs	Major Project
Total Phase 2					**1,043,445**	**4,122,675**	**15.38**	**50,400**	**106,600**	**4,279,675**			

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-047

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, ACCOUNT NO. 0700-160-E004 TO INCLUDE $3.17 MILLION IN PROPOSITION 1B PHASE II FUNDING FOR LOCAL STREETS AND ROADS PAVING PROJECTS

WHEREAS, Proposition 1B (Prop 1B) provides $19.925 billion in bond funds for a variety of transportation priorities, including $2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities, and

WHEREAS, funds were to be distributed in two phases, and

WHEREAS, in 2008, the City was eligible for and received $3,364,421 for Phase I funding based on population, and

WHEREAS, the City is now eligible to receive $3,174,344 in Phase II funding, and

WHEREAS, each city must submit a list of projects, expected to be funded with Prop 1B funds to the State of California, Department of Finance, before an allocation is made, and

WHEREAS, if the City does not receive this Prop 1B additional funding, the FY 09-10 CIP Budget will be reduced by $3,174,344, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended to reflect the additional $3.17 million in funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget, Account No. 0700-160-E004, to include $3.17 million in Proposition 1B Phase II funding for local street and road paving projects.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-048

A RESOLUTION APPOINTING KATE TROMPETTER TO THE CITY OF MODESTO CULTURE COMMISSION

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

WHEREAS, the Economic Development Committee met on January 11, 2010, and recommended appointment of Kate Trompetter to the Culture Commission.

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

SECTION 1. Kate Trompetter is hereby appointed to the Culture Commission with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 2nd day of February, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-049

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF DISCING AND FLAIL MOWING SERVICES FOR THE PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT, PARK OPERATIONS DIVISION, TO AM PM FARMS, CROWS LANDING, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT, FOR AN ESTIMATED ANNUAL COST OF $46,076, AND OVER FIVE (5) YEARS OF $230,380

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB's) for discing and flail mowing services, and

WHEREAS, the Purchasing Division issued RFB No. 0910-07 Discing and Flail Mowing Services to twenty-three (23) prospective bidders, fourteen (14) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Six (6) companies chose to respond, two (2) of which were local companies. All six (6) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of discing and flail mowing services for the Parks, Recreation & Neighborhoods Department, Park Operations Division, to AM PM Farms, Crows Landing, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $46,076, and over five (5) years of $230,380, and

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

to be formally bid. The award of bid and contract for the furnishing of discing and flail mowing services for the Parks, Recreation & Neighborhoods Department, Park Operations Division, to AM PM Farms, Crows Landing, CA, conforms to the Modesto Municipal Code,

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in Appropriation Unit: 0100-350-3522-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of discing and flail mowing services for the Parks, Recreation & Neighborhoods Department, Park Operations Division, to AM PM Farms, Crows Landing, CA, for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $46,076, and over five (5) years of $230,380.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-050

A RESOLUTION ACCEPTING A CALIFORNIA EMERGENCY MANAGEMENT AGENCY ANTI-DRUG ABUSE PROGRAM GRANT IN THE AMOUNT OF $469,176 FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Modesto Police Department applied for funding from the California Emergency Management Agency (Cal EMA) for the Stanislaus Anti-Drug Task Force, and

WHEREAS, the Stanislaus Anti-Drug Abuse Enforcement Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, the SDEA has been a recipient of the Cal EMA grant for the past 19 years, and

WHEREAS, the grant is used to pay for personnel and needed equipment within the SDEA, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Emergency Management Agency Anti-Drug Abuse

Enforcement Program grant in the amount of $469,176 for the Stanislaus Drug Enforcement Agency to combat major drug trafficking and manufacturing.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2010-051

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $469,176 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING

WHEREAS, the Modesto Police Department applied for funding from the California Emergency Management Agency (Cal EMA) for the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, the Stanislaus Anti-Drug Abuse Enforcement Program is part of the SDEA, and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, the SDEA has been a recipient of the Cal EMA grant for the past 19 years, and

WHEREAS, the grant is used to pay for personnel and needed equipment within the SDEA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Multi-Year Budget to appropriate revenues and expenditures of $469,176 from the California Emergency Management Agency for the Stanislaus Drug Enforcement Agency as indicated in the **attached** Budget Adjustment, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Finance
Fund Title: 8850 - SDEA

Council Action Date:
Resolution Number:
FY: 09-10
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
8850-190-1974-3501		$300,000	$169,176	$469,176	Federal Grant OCJP
8850-190-1974-3702		$707,703	($227,001)	$480,702	Contributions-In-Kind
APPROPRIATIONS					
FROM					
TO					
8850-190-1974-0181	1974-A		$116,731	$116,731	Salary Adjustment - Increase
8850-190-1974-0191	1974-A		$52,445	$52,445	Benefits Adjustment - Increase
			$169,176		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget adjustment amends the adopted MY budget for FY 2009-10 in Org. 8850-190-1974 - SDEA Grant to increase the amount of the grant award from the estimated $300,000 to $469,176 in revenue object 3501 - Federal Grant - OJCP, and appropriates offsetting expenses for salaries (Object 0181) and benefits (Object 0191) covered by the grant. This increase provides for the reduction of contributions-in-kind in the amount of $227,001in revenue object 3702. These actions will align revenues with expenses in the budget with those programmed in the grant application

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		**1/14/2010**
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)		

TRANSFER NO.: _____

BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-052

A RESOLUTION APPROVING AN AGREEMENT WITH URS CORPORATION DBA URS CORPORATION AMERICAS (URS) FOR DESIGN SERVICES FOR THE INSTALL NEW WELL IN TIVOLI PROJECT IN AN AMOUNT NOT TO EXCEED $72,510 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $7,251 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $79,761, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Tivoli Well will be one of the two new wells proposed in the Northeast area of the City as part of the required infrastructure identified in the Tivoli Development Specific Plan (Final Report dated May 9, 2008), and

WHEREAS, the well is necessary for future growth and development in the Tivoli area as well as the City water system as a whole, and

WHEREAS, the purpose of this well is to provide additional water for increased pressure, fire flow requirements and redundancy, and

WHEREAS, the consultant for this project, URS, employs a state-certified hydrogeologist who will provide technical expertise and lead the design and development of new standards and specifications for construction of a test hole for groundwater monitoring and source aquifer identification, and

WHEREAS, if good quality water is found, a Preliminary Design Report will be prepared for Council at a later date and a full-scale production well construction will be recommended, and

WHEREAS, on April 7, 2009, by Resolution No. 2009-149, the City Council approved a short-list of hydrogeologists to be used on a rotating, as-needed basis, consisting of the following firms: Brown & Caldwell, URS, and West Yost Associates, Inc., and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, three Request For Proposals (RFP) were sent to the consultants on the short-list, and

WHEREAS, three proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Water Operations staff, and

WHEREAS, the Selection Committee determined that URS is the most qualified to prepare the design of the Install New Well in Tivoli project, and

WHEREAS, City staff recommends approving an Agreement with URS as the City does not have the staffing level or subject matter expertise to provide design services for the Install New Well in Tivoli project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with URS Corporation dba URS Corporation Americas for design services for the Install New Well in Tivoli project in an amount not to exceed $72,510 for the identified scope of services, plus $7,251.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-053

RESOLUTION APPOINTING BRAD DE LA CRUZ AS AN ALTERNATE TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

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

WHEREAS, the Safety & Communities Committee met on February 1, 2010, and recommended appointment of Brad de la Cruz to the Entertainment Commission.

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

SECTION 1. Brad de la Cruz is hereby appointed as an Alternate to the Entertainment Commission with a term expiration of January 1, 2014.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-054

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF TOM HALLINAN FROM THE LANDMARK PRESERVATION COMMISSION

WHEREAS, Tom Hallinan was appointed a member of the Landmark Preservation Commission, and

WHEREAS, Tom Hallinan has tendered his resignation from the Landmark Preservation Commission and

NOW, THERFORE, BE IT RESOLVED that the resignation of Tom Hallinan from the Landmark Preservation Commission be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-055

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE MCHENRY-BRIGGSMORE REAL ESTATE INVEST GROUP COMMERCIAL PROJECT LOCATED AT THE SOUTHWEST CORNER OF BRIGGMORE AND MCHENRY ANVENUES, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORZING PAYMENT OF AMOUNTS TOTALING $153,413.00

WHEREAS, the McHenry-Briggsmore Real Estate Invest Group (Developer), is the developer of the commercial project located at the southwest corner of Briggsmore and McHenry Avenues (Project), and

WHEREAS, all required improvements (Public Improvements) by Developer have been completed to the satisfaction of the Utility Planning and Projects Department, and

WHEREAS, the Construction Administration Office of the Utility Planning and Projects Department has verified that all required Public Improvements for the Project have been satisfactorily completed, and all inspection fees have been paid, and

WHEREAS, upon acceptance of the Public Improvements, the Utility Planning and Projects Department will assume maintenance responsibilities,

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

1. The Public Improvements for the Project are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the Public Improvements.

2. The City Clerk is hereby authorized to release the construction bond in the amount of $225,000.00 upon recordation of the Notice of Completion.

3. Payment to Developer is hereby authorized in the amount of $153,413.00 per the terms of the Capital Facilities Fees Right-of-Way and Improvement Reimbursement Agreement no later than thirty (30) days after acceptance of the Public Improvements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-056

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BY AND BETWEEN THE CITY OF MODESTO, THE COUNTY OF MERCED, CITY OF MERCED, MERCED COUNTY ASSOCIATION OF GOVERNMENTS, COUNTY OF STANISLAUS, CITY OF TURLOCK, STANISLAUS COUNCIL OF GOVERNMENTS, SAN JOAQUIN REGIONAL RAIL COMMISSION, SAN JOAQUIN COUNTY, CITY OF STOCKTON, CITY OF LODI, CITY OF MANTECA, SAN JOAQUIN REGIONAL TRANSIT DISTRICT, SAN JOAQUIN COUNCIL OF GOVERNMENTS, COUNTY OF SACRAMENTO, CITY OF SACRAMENTO, CITY OF ELK GROVE, CITY OF GALT, SACRAMENTO REGIONAL TRANSIT AND SACRAMENTO AREA COUNCIL OF GOVERNMENTS FOR THE HIGH SPEED RAIL MERCED TO SACRAMENTO WORKING GROUP

WHEREAS, the City of Modesto, the County of Merced, City of Merced, Merced County Association of Governments, County of Stanislaus, City of Turlock, Stanislaus Council of Governments, San Joaquin Regional Rail Commission, County of San Joaquin, City of Stockton, City of Lodi, City of Manteca, San Joaquin Regional Transit District, San Joaquin Council of Governments, County of Sacramento, City of Sacramento, City of Elk Grove, City of Galt, Sacramento Regional Transit and Sacramento Area Council of Governments (the "Parties") share the goal of improving and increasing passenger rail service interconnecting their communities and the regions, and

WHEREAS, the Parties have been working together since February 2007 on a planning study to determine the feasibility of commuter rail service between Merced and Sacramento, and

WHEREAS, California voters approved Proposition 1A, the Safe, Reliable High Speed Passenger Train Bond Act of November 4, 2008, requiring that the California High Speed Rail Authority (CHSRA) prepare a plan and design for the high speed rail (HSR)

system, conduct environmental studies, obtain necessary permits, and undertake the construction and operation of a high-speed train network in California, and

WHEREAS, included in the CHSRA work is planning for HSR service between Merced and Sacramento and a complementary and connecting service between the Central Valley and the Bay Area along the Altamont Corridor, with CHSRA acting as a lead agency in preparing project level environmental impact reports (EIR's) for each corridor, and

WHEREAS, it is in the best interest of the Parties and CHSRA to coordinate the desires for high speed rail and for regional rail service into one planning effort, and to the extent possible, identify one ultimate Corridor with layered services, and

WHEREAS, CHSRA has agreed to incorporate the regional services concept into the overall planning and environmental process in order to streamline and coordinate the service development, provided there is an active and committed regional partner, and

WHEREAS, CHSRA is preparing a project level Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") for the Merced to Sacramento High Speed Train section of the proposed high speed rail system, and

WHEREAS, CHSRA's Notice of Preparation discloses that the downtown Modesto site will be surveyed in the Bay Area to Central Valley EIR/EIS, and

WHEREAS, pursuant to Policy V.6.K of the Modesto Urban Area General Plan, the City of Modesto encourages and supports the development of a high speed rail corridor through the San Joaquin Valley and the development of a high speed and regional rail station within the City, and

WHEREAS, on January 12, 2010, the City Council, by motion, took action supporting high-speed and regional passenger rail in downtown Modesto, and

WHEREAS, downtown Modesto is the preferred location for a HSR station, based as follows:

- HSR station in downtown Modesto along the Union Pacific corridor is best suited to serve the largest communities and the most heavily traveled transportation corridor within Stanislaus County, including Turlock and Ceres, as well as communities on the west side of the County, including Patterson and Newman, improving ridership and reducing automobile trips.
- HSR station in downtown Modesto will encourage investment in the existing city, especially in downtown.
- Goal 3 of the Modesto Redevelopment Master Plan encourages higher density, mixed use development in downtown Modesto to create a balanced, vibrant downtown and active neighborhood centers, which supports the development of rail transit.
- HSR station in downtown will encourage transit-oriented development and mixed-use development within downtown Modesto.
- HSR station in downtown will complement the existing bus station/service that exists in downtown Modesto, providing an excellent opportunity to collocate interregional and regional rail service at the same location.

WHEREAS, it is the intent of the City of Modesto to engage in planning and financing of a high speed and regional rail station in downtown Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding by and between the Parties for the High Speed Rail Merced to Sacramento Working Group.

BE IT FURTHER RESOLVED that the Council hereby supports a High Speed and Regional Rail station in downtown Modesto.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-057

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FINANCE

In review of the multi-year transfers for Fiscal Year 2009-10, it was discovered that transfers from the General Fund to the Great Gang Resistance Education & Training, Safe Neighborhood Grants Program and Annual Slurry Seal organizations were budgeted in error. This budget adjustment removes the specified amounts from the individual organizational budgets, and decreases the transfer budget in the General Fund.

TRANSFERS BETWEEN FUNDS

FROM:	
General Fund Transfer to Fund 0410 0100-700-2903-7041	(53,245)
General Fund Transfer to Fund 0410 0100-700-2905-7041	(100,000)
General Fund Transfer to Fund 0700	(320,000)
TO:	
Transfer In From General Fund 0410-700-2903-9010	(53,245)
Transfer In From General Fund 0410-700-2905-9010	(100,000)
Transfer In From General Fund 0700-700-4380-9010	(320,000)

In addition to the budget adjustment referenced above, $2,657 of the transfer amount budgeted in error to the Great Gang Resistance Education & Training is needed to cover a shortfall in this grant. This budget adjustment transfers the monies needed to cover the Great Gang Resistance Education & Training grant shortfall from General Fund Reserves.

APPROPRIATIONS

FROM:	
General Fund Reserves 0100-800-8000-8003	(2,657)
TO:	
Operation Grant Reserves 0410-800-8000-8003	2,657

TRANSFERS BETWEEN FUNDS

FROM:	
General Fund Transfer to Fund 0410 0100-700-2905-7041	2,657
TO:	
Transfer In From General Fund 0410-700-2905-9010	2,657

In Fiscal Year 2008-09 the City received $1,776,620 in Prop 42 funds. Due to the State's economic situation, only $904,204 of the Prop 42 funds was budgeted. This budget adjustment recognizes the remaining Prop 42 funds in sub-fund 0720, which was set-up to monitor the spending of Prop 42 funds.

REVENUES

TO:	
Prop 42 Sub Fund (S.T.F.)	872,416
0720-430-4620-3230	

In Fiscal Year 2008-09 the City received $3,364,421 in Prop 1B funds. Due to the State's economic situation, only $1,844,126 of the Prop 1B funds was budgeted. This budget adjustment recognizes the remaining Prop 1B funds in sub-fund 0710, which was set-up to monitor the spending of Prop 1B funds.

REVENUES

TO:	
Surface Transportation Prop 1B Funds	1,520,295
0710-430-4360-3203	
Interest	14,000
0710-430-4360-6101	

Each year the General Fund must fulfill a Maintenance of Effort (MOE) requirement in support of Streets and Roads. A transfer from the General Fund was made in the amount of $2,007,175. The actual amount required for Fiscal Year 2009-10 is $1,687,175. This budget adjustment reduces the transfer by $320,000.

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer from General Fund to Fund 0700	(320,000)
0100-700-4380-7070	
TO:	
Transfer in From General Fund	(320,000)
0700-700-4380-9010	

This budget adjustment will direct the Maintenance of Effort (MOE) transfers from the General Fund to a sub-fund (0750) of the Surface Transportation Fund. MOE funds must be spent in accordance with the rules of Proposition 42. Therefore, the sub fund has been established to monitor where these funds are spent.

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer from General Fund to Fund 0700	(367,175)
0100-700-4612-7070	
Transfer from General Fund to Fund 0700	(389,400)
0100-700-4622-7070	

Transfer from General Fund to Fund 0700 0100-700-4724-7070	(930,600)
Transfer from General Fund to Fund 0750 0100-700-4650-7075	1,687,175
TO:	
Transfer in From General Fund 0700-700-4612-9010	(367,175)
Transfer in From General Fund 0700-700-4622-9010	(389,400)
Transfer in From General Fund 0700-700-4724-9010	(930,600)
Transfer in From General Fund 0750-700-4650-9010	1,687,175

This budget adjustment completes the transfer from the Special Gas Tax Fund (0700) to the Forestry Division, Organization 4712, in the General Fund (0100). A Special Gas Tax Sub Fund (0730) has been established for future transfers.

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer From Fund 0700 to General Fund 0100 0700-700-4712-7010	(852,200)
TO:	
Transfer in From Fund 0700 0100-700-4712-9070	(852,200)

HUMAN RESOURCES

In Fiscal Year 2007-08 the property insurance payment was inadvertently posted to the General Liability Fund instead of the Property Insurance Fund. This budget adjustment corrects the posting and reimburses the General Liability Fund.

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer Out to General Liability 7340-700-7000-7733	295,529
TO:	
Transfer in From Property Insurance 7330-700-7000-9734	295,529

PARKS, RECREATION AND NEIGHBORHOODS

The initial funding allocated from CDBG Carryover for the accessible play equipment, accessible ramps, etc. for Cesar Chavez, Robertson Road and Mellis parks is being reduced. Expenses are not expected to exceed $300,000 as later determined by the project manager.

REVENUES

FROM:	
CDBG Carryover	(50,000)

APPROPRIATIONS

FROM:	
ADA Accessibility Projects - Construction 1130-320-3237-6040	(57,653)
ADA Accessibility Projects - Contingency 1130-320-3237-6050	(35,000)
TO:	
ADA Accessibility Projects – Engineering 1130-320-3237-6010	3,000
ADA Accessibility Projects – City Construction Forces 1130-320-3237-6041	20,000
ADA Accessibility Projects – Construction Administration 1130-320-3237-6060	18,000
CDBG - Contingency Reserves 1130-800-8000-8003	51,653

The Parks, Recreation and Neighborhoods Department are requesting the establishment of a new multi-year organization to recognize revenues received through private donations. Donations are received throughout the fiscal year which requires appropriating expenses for multi year projects. Such as, park maintenance, programs and special events. This budget adjustment recognizes new revenue from Stanislaus Community Foundation and allocates these funds within the items mentioned above.

REVENUES

TO:	
Donation Revenue 1400-310-3143-8107	18,256

APPROPRIATIONS

TO:	
Park Fund – Postage 1400-310-3143-0201	100
Park Fund – Printing/Binding 1400-310-3143-0205	200
Park Fund – Services Professional & Other 1400-310-3143-0235	5,000
Park Fund – Service Credit Expense 1400-310-3143-0255	12,956

As a pilot project, the Parks, Recreation & Neighborhoods Department will provide, over the next six months, coordinated management of both the Graffiti Abatement Program and Partners in Paint. To fund this pilot through the end of FY 2009-10, it is necessary to allocate $12,300 from the General Fund Reserves. These funds will cover increasing the allocation of one Recreation Coordinator from ¾ time to full-time ($7,250); fleet charges ($2,646); and supply

storage ($2,400). If the pilot project is successful, it is anticipated that the annual expense for FY 2010-11 would be approximately $40,000.

APPROPRIATIONS

FROM:	
General Fund Reserves 0100-800-8000-8003	(12,296)
TO:	
Salary Adjustment – Increase 0100-370-3712-0281	7,250
Equipment Pool and Rental Maintenance 0100-370-3712-0218	2,646
Tool, Shop and Field Supplies 0100-370-3712-0308	2,400

In the Fall of 2009 the Central Valley endured severe storm conditions with high winds that caused extensive damage to city trees. This left excessive amounts of debris in city streets and required staff to work extended hours to remove the debris. In an effort to maintain the Solid Waste Division diversion rate, Solid Waste has agreed to fund the Forestry Division overtime expense caused by this storm. This budget adjustment is reflective of the agreement.

REVENUE

TO:	
Forestry Division Service Credit Revenue 0100-350-4712-4909	37,800

APPROPRIATIONS

FROM:	
Solid Waste Fund Reserves 0310-800-8000-8003	(37,800)
TO:	
Solid Waste Service Credit Expense 0310-355-4402-0255	37,800
Community Forestry Overtime Expense 0100-350-4712-0130	37,800

The Solid Waste Division manufactures compost which is then sold to the general public. This budget adjustment transfers funds from Solid Waste Reserves to Part-Time Labor to cover the expense related to the sale of compost at the Senior Citizens Center.

APPROPRIATIONS

FROM:	
Solid Waste Fund Reserves 0310-800-8000-8003	(1,800)

TO:
Salary & Wages Part-Time 1,800
0310-355-4402-0140

PULBIC WORKS

Capital Improvement Projects allocated to growth are eligible for reimbursement from the Water Development Fund. This budget adjustment transfers funds from the Water Development Fund to Capital Improvement Projects for expenses in Fiscal Year 2008-09, and through November in Fiscal Year 2009-10.

APPROPRIATIONS

FROM:
Water Development Fund Reserves (1,763,593)
6101-800-8000-8003

TRANSFERS BETWEEN FUNDS

FROM:
Transfer Out to Water Fund 1,763,593
6101-700-7000-7610

TO:
Transfer in From Water Development Fund 1,763,593
6180-700-7000-9610

This budget adjustment reduces an over appropriation in Capital Improvement Project W425-Downstream Improvements Primary in the amount of $16,312,435. The original Council item from June 2006 was to issue bonds for Water Downstream Improvement in October 2006 and December 2007. However, the December bond was not issued. The appropriation needs to reflect amount needed by the original bond issued in 2006 and the refunding (to lower interest rates) in 2008.

APPROPRIATIONS

FROM:
Downstream Improvements Primary (16,312,435)
6180-430-W425-6052

TO:
Water Fund Capital Improvement Project Reserves 16,312,435
6180-800-8000-8003

This budget adjustment is necessary to close Capital Improvement Project E520-SR219 Project Coordinator Services Secondary-E330, and return the used funds back to Gas Tax Reserves as the project is complete.

APPROPRIATIONS

FROM:	
Capital Improvement Project E520-SR219 Project Closure	(5,054)
2370-160-E520-8014	
TO:	
Gas Tax Reserves	5,054
2370-800-8000-8003	

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer Out to Capital Grants Gas Tax	(5,054)
0700-700-E520-7237	
TO:	
Transfer in From Gas Tax Fund	(5,054)
2370-700-E520-9070	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-058

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT AN APPLICATION FOR STATEWIDE PARK PROGRAM GRANT FUNDS FOR THE IMPLEMENTATION OF THE MANCINI PARK RENOVATION PROJECT

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application, and

WHEREAS, said 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 applicant will enter into a contract with the State of California to complete the grant scope project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to file an application for Statewide Park Program Grant Funds for the implementation of the Mancini Park Renovation project, and

1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project, and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide, and
4. Delegates the authority to the City Manager, or their designee, to conduct all negotiations, sign and submit all documents; including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope, and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-059

RESOLUTION APPROVING AN APPLICATION FOR STATEWIDE PARK DEVELOPMENT PROGRAM FUNDS FOR THE THURMAN SOCCER FIELD IMPROVEMENTS PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION AND ALL RELATED DOCUMENTS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application, and

WHEREAS, said 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 applicant will enter into a contract with the State of California to complete the grant scope project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves filing an application for Statewide Park Development Program Funds for the Thurman Soccer Field Improvements Project, and

1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project, and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide, and

4. Delegates the authority to the City Manager, or his designee, to conduct all negotiations, sign and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope, and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-060

A RESOLUTION ACCEPTING THE WORK BY APPLEGATE JOHNSTON, INC. FOR THE "T-HANGER L CONSTRUCTION AT THE MODESTO CITY – COUNTY AIRPORT PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $623,906.72

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the T-Hanger L Construction at the Modesto City – County Airport Project has been completed by Applegate Johnston, Inc. in accordance with the contract agreement dated January 6, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "T-Hanger L Construction at the Modesto City – County Airport Project" is hereby accepted as complete from said contractor Applegate Johnston, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $623,906.72 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-061

A RESOLUTION APPROVING AN AGREEMENT WITH O'DELL ENGINEERING, INC. FOR DESIGN SERVICES FOR WEST AND CENTRAL BASIN EROSION CONTROL, VILLAGE ONE #2 CFD NO. 2004-1 PROJECT IN AN AMOUNT NOT TO EXCEED $58,490 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $5,849 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $64,339, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Village One Facilities Plan, the City of Modesto had two large detention basins designed and constructed to accommodate the storm runoff in the newly developed areas in the Village One Community Plan Development (CPD) in East Modesto, and

WHEREAS, the Central Basin is located on Merle Avenue, near the intersection of Merle Avenue and Dermond Road, and has a storage capacity of 50 acre-feet, and

WHEREAS, the West Basin is located on Bear Cub Lane, between Hillglen Avenue and Kodiak Drive, and has a storage capacity of 70 acre-feet, and

WHEREAS, each basin has a 16-foot access road around the perimeter and a pump station, and

WHEREAS, the access road and pump station pad are causing issues on the adjacent basin walls, which are suffering from sheet and rill erosion, and

WHEREAS, this storm runoff is breaking up the soil, degrading the walls and in many areas, causing concentrated flow paths, and

WHEREAS, the sediment from the walls is deposited at the bottom of each basin, which results in additional maintenance, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Landscape Architectural and Engineering Services for Capital Projects, five (5) Request for Proposals (RFPs) were sent to design firms, and

WHEREAS, the proposals were submitted and subsequently reviewed by the Selection Committee which consisted of Utility Planning and Projects, Parks, Recreation & Neighborhoods, and Public Works - Wastewater Operations staff, and

WHEREAS, following the proposal reviews, the Selection Committee determined that O'Dell Engineering, Inc. is the most qualified to prepare the design of West and Central Basin Erosion Control, and

WHEREAS, City staff recommends approving an Agreement with O'Dell Engineering, Inc. as the City does not have the staffing level or subject matter expertise to provide design services for the West and Central Basin Erosion Control project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with O'Dell Engineering, Inc. for design services for the Design Services for West and Central Basin Erosion Control, Village One #2 CFD No. 2004-1 project in an amount not to exceed $58,490 for the identified scope of services, plus $5,849 for additional services (if needed), for a maximum total amount of $64,339.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of February, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-062

A RESOLUTION APPROVING THE RE-APPOINTMENT OF TED BRANDVOLD AS THE 2010 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Planning Commission met on January 25, 2010, and recommended the re-appointment of Ted Brandvold as its representative to the Board of Zoning Adjustment,

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

SECTION 1. Ted Brandvold is hereby re-appointed as the 2010 Planning Commission representative to the Board of Zoning Adjustment, with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-063

A RESOLUTION REAPPOINTING PATRICIA GILLUM AS THE 2010 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION

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

WHEREAS, the Planning Commission met on January 25, 2010, and recommended the re-appointment of Patricia Gillum as its representative to the Citizens Redevelopment Advisory Commission,

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

SECTION 1. Patricia Gillum is hereby re-appointed as the 2010 Planning Commission representative to the Citizens Redevelopment Advisory Commission, with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-064

A RESOLUTION APPOINTING CHRIS TYLER AS THE 2010 PLANNING COMMISSION REPRESENTATIVE TO THE CIP TASKFORCE

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

WHEREAS, the Planning Commission met on January 25, 2010, and recommended reappointment of Chris Tyler as its representative to the CIP Taskforce,

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

SECTION 1. Chris Tyler is hereby appointed as the 2010 Planning Commission representative to the CIP Taskforce, with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-065

A RESOLUTION APPOINTING STEVE CARTER AS THE 2010 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, on January 25, 2010, the Planning Commission recommended Steve Carter as its representative 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. Steve Carter is hereby appointed as the 2010 Planning Commission representative to the Citizens Housing & Community Development Committee, with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-066

RESOLUTION APPROVING THE APPOINTMENT OF BILL ZOSLOCKI, RICHARD TATOYAN, DUKE LEFFLER, JAN MARIE ENNENGA, RICK DAHLSEID, SANDRA LUCAS, MARSHALL RIDDLE, DEBORAH RIGGS, DAVID WRIGHT (ALTERNATE), CITY MANAGER OR DESIGNEE, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT, INFRASTRUCTURE FINANCE PROGRAM ADMINISTRATOR, DIRECTOR OF UTILITY PLANNING AND PROJECTS AND DIRECTOR OF FINANCE TO THE COMPREHENSIVE FEE TASK FORCE

WHEREAS, on November 23, 2009, the Finance Committee approved the formation of the Comprehensive Fee Task Force for the purpose of coordinating all development related fee proposals and aligning all fee structures with the goals and policies of the General Plan and Strategic Plan, and

WHEREAS, the motion included an application process for the Citizen-at-Large positions and the Commercial Broker position, and

WHEREAS, the Economic Development Committee held a special meeting on January 7, 2010 to review and consider appointments to the Task Force, and

WHEREAS, a total of 23 applications were received for consideration, and

WHEREAS, interviews for the Commercial Broker and Citizen-at-Large appointments were conducted by the Economic Development Committee on January 19, 2010 and January 21, 2010, and

WHEREAS, at the conclusion of the interviews, the Economic Development Committee made a motion to recommend to the City Council the following changes to the Task Force:

- Increased the Citizens-at-Large appointments from three to four
- Added one Citizen-at-Large Alternate appointment
- Removed the Finance Committee appointment
- Confirmed staff appointments as active participants with non-voting status

WHEREAS, the Economic Development Committee made a motion to recommend the following appointments to the Task Force:

Bill Zoslocki: Building Industry Association (BIA) representative.

Richard Tatoyan: Construction Industry Liaison Committee (CILC) representative

Duke Leffler: Commercial Broker

Jan Marie Ennenga: Manufacturer's Council representative

Rick Dahlseid, Sandra Lucas, Marshall Riddle, Deborah Riggs: Citizens-at-Large: David Wright: Alternate Citizen at Large

City Manager or designee (Non-voting)

Director of Community and Economic Development (Non-voting)

Infrastructure Finance Program Administrator (Non-voting)

Director of Utility Planning and Projects (Non-voting)

Director of Finance (Non-voting)

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

SECTION 1. Bill Zoslocki, Richard Tatoyan, Duke Leffler, Jan Marie Ennenga, Rick Dahlseid, Sandra Lucas, Marshall Riddle, Deborah Riggs and David Wright (Alternate), City Manager or designee, Director of Community and Economic Development, Infrastructure Finance Program Administrator, Director of Utility Planning and Projects and Director of Finance are hereby appointed to the Comprehensive Fee Task Force.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Comprehensive Fee Task Force, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-067

RESOLUTION EXTENDING THE CONTRACT FOR THE FURNISHING OF UNIFORM AND LAUNDRY SERVICES FOR CITYWIDE USE WITH PRUDENTIAL OVERALL SUPPLY CO., FRESNO, CA, FOR EIGHTEEN (18) MONTHS AT THE CURRENT CONTRACT TERMS, FOR AN ESTIMATED ANNUAL COST OF $105,945

WHEREAS, Article 22 of the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employees Association (MCEA) requires the City to provide uniforms and laundry service for Non-Sworn City employees, and

WHEREAS, in addition to the above, the City is required to provide coveralls, pants and rain gear for certain employees, dependent upon classification, and

WHEREAS, the City also provides uniforms for certain classifications of Management and Confidential Employees, including Electrical Supervisor, Land Surveyor, Maintenance Supervisors, Plant Maintenance Supervisor, Secondary Treatment Facilities Supervisor and WQC Operations Supervisor, and

WHEREAS, Resolution No. 2004-490, authorized the award of proposal and contract for the furnishing of uniform and laundry services for Citywide use to Prudential Overall Supply Co., Fresno, CA, for a one-year agreement with four (4) one-year extension options, and

WHEREAS, said contract was executed in December of 2004 and the last extension option has expired and the services are scheduled to be bid, and

WHEREAS, because of the time needed to conduct a comprehensive formal bid process combined with these demanding economic times, City staff proposes extending the agreement for eighteen (18) months at the current contract terms. Prudential Overall Supply Co. has accepted this offer, and

WHEREAS, upon Council approval, the contract will be extended at the current contract terms through June 30, 2011, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there is one exception to the Code, Section 8-3.204(c) where the Purchasing Manager, in his discretion, may determine that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances, and

WHEREAS, based on these lean economic times and department budget shortfalls the Purchasing Manager has made the determination that it is not in the City's best interest to go out to bid at this time and thus invokes the exigent circumstances exception. An eighteen (18) month contract extension at the current contract terms for the furnishing of uniform and laundry services for Citywide use with Prudential Overall Supply Co., Fresno, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in Appropriation Units: 0100-350-3522-0226, 0100-370-3732-0226, 0100-480-4712-0226, 0310-355-4402-0226, 0370-355-4444-0226, 0700-160-1612-0226, 0700-480-4612-0226, 0700-480-4622-0226, 0700-480-4724-0226, 6000-350-3581-0226, 6100-480-5007-0226 6100-480-5009-0226, 6100-480-5012-0226, 6100-480-5013-0226, 6100-480-5016-0226 6210-480-5210-0226, 6210-480-5211-0226, 6210-460-5212-0226, 6210-480-5213-0226 6210-480-5214-0226, 6210-480-5215-0226, 6210-480-5217-0226, 6280-480-5313-0226 6280-480-5314-0226, 6290-355-5222-0226, 6310-440-5412-0226, 6540-480-5612-0226 6700-340-3412-0226, 7110-120-1272-0226, 7200-480-5812-0226, 7800-350-3512-0226

7800-350-3513-0226, 8500-350-3524-0226,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes extending the contract for the furnishing of uniform and laundry services for Citywide use with Prudential Overall Supply Co., Fresno, CA for eighteen (18) months.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a eighteen (18) month contract extension at the current contract terms, for an estimated annual cost of $105,945.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-068

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A MAJOR AIRPORT RESCUE AND FIRE-FIGHTING VEHICLE FOR THE MODESTO CITY-COUNTY AIRPORT, THROUGH THE PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES DIVISION, TO OSHKOSH CORPORATION, OSHKOSH, WI, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT FOR AN ESTIMATED TOTAL COST OF $646,671

WHEREAS, the Modesto City-County Airport is required to maintain an FAA approved level of fire/rescue support for commercial airline operations. The on-airport fire station is staffed by Modesto fire personnel during commercial operations and is equipped with two specialized ARFF apparatus, and

WHEREAS, in 2008 the airport submitted a request to replace a 1960's ARFF unit as part of its Airport Capital Improvement Plan. The Grant was approved and on June 10, 2008, the City Council, by Resolution No. 2008-346, accepting Federal Airport Improvement Grant Offer AIP # 3-06-0153-32 in the amount of $1,045,000 that included funding for the new airport fire truck, and

WHEREAS, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The Airport Rescue and Fire-Fighting vehicle for the Modesto City-County Airport, through the Public Works Department, Transportation Services Division, was included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, the Purchasing Division issued RFB No. 0809-18, Major Airport Rescue and Fire-Fighting Vehicle to thirty-one (31) prospective bidders, none of which

were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the thirty-one (31) prospective bidders, four (4) companies chose to respond, none of which were local vendors, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a Major Airport Rescue and Fire-Fighting Vehicle to Oshkosh Corporation, Oshkosh, WI, for the total estimated cost of $646,671, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a Major Airport Rescue and Fire-Fighting Vehicle for the Modesto City-County Airport, through the Public Works Department, Transportation Services Division, to Oshkosh Corporation, Oshkosh, WI, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in account 6320-440-A001-6070.

WHEREAS, a Federal Aviation Administration Airport Improvement Program Grant is providing 95% of the funding for this equipment acquisition. The remaining 5% of the new vehicle cost is reimbursable by the Passenger Facility Charge collected on airline passengers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a Major Airport

Rescue and Fire-Fighting Vehicle for the Modesto City-County Airport, through the Public Works Department, Transportation Services Division, to Oshkosh Corporation, Oshkosh, WI.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an agreement for an estimated total cost of $646,671.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-069

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR CITYWIDE BANKING SERVICES TO BANK OF THE WEST, SACRAMENTO, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF APPROXIMATELY $70,000, AND OVER FIVE (5) YEARS OF $350,000

WHEREAS, the City Manager, in August of 2009 authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for citywide Banking Services, and

WHEREAS, the Purchasing Division issued RFP No. 0910-02 to twenty-three (23) prospective proposers, all of which were local companies, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, RFP's were formally opened in the City Clerk's office. Of the twenty-three (23) prospective proposers, ten (10) companies chose to respond. All ten (10) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of four (4) City staff personnel and one representative from Stanislaus County evaluated the proposals for responsiveness and best value to the City. Councilmember Muratore was the appointed Council observer to the evaluation process, and

WHEREAS, based on being ranked highest in overall responsiveness and for also providing the lowest cost proposal, the committee recommends the award of proposal and contract for citywide banking services to Bank of the West, Sacramento, CA, for an estimated annual cost of cost of approximately $70,000 and over five (5) years of $350,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for citywide banking services parking to Bank of the West, Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, the Revenue Clearing Fund has funds budgeted for banking services in Account No.: 0130-510-XXXX-6101,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for banking services to Bank of the West, Sacramento, CA for a two year agreement, with three one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated annual cost of $70,000, and over five years of $350,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-070

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF SEVEN (7) HONDA MOTORCYCLES FOR THE MODESTO POLICE DEPARTMENT THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO HONDA KAWASAKI OF MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $106,224

WHEREAS, the Modesto Police Department operates a fleet of 20 patrol motorcycles. Seven (7) Honda police motorcycles are being replaced this year based on a three (3) year replacement cycle. The cost analysis for these motorcycles has shown that the lifecycle cost is lowest when they are replaced at the end of their three year warranty period. At this point the motorcycles have achieved their lowest operating costs while retaining the highest resale value, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The seven (7) Honda police motorcycles for the Modesto Police Department were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the Purchasing Division issued RFB No. 0910-14 Honda ST1300P Police Motorcycles to five (5) prospective bidders, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the five (5) prospective bidders, two (2) companies chose to respond, one of which is a local

vendor as defined in the Modesto Municipal Code, and is eligible to receive a 2% local vendor preference, and

WHEREAS, based on the local vendor preference, City staff recommends the award of bid and contract for the purchase of seven (7) Honda police motorcycles for the Modesto Police Department, through the Public Works Department, Fleet Services Division, to Honda Kawasaki, Modesto, CA, for an estimated total cost of $106,224, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of seven (7) Honda police motorcycles for the Modesto Police Department, through the Public Works Department, Fleet Services Division, to Honda Kawasaki of Modesto, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-5512,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of seven (7) Honda police motorcycles for the Modesto Police Department through the Public Works Department, Fleet Services Division, to Honda Kawasaki of Modesto, Modesto, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $106,224.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-071

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF SEVENTEEN (17) CROWN VICTORIA POLICE INTERCEPTOR VEHICLES, FOR THE MODESTO POLICE DEPARTMENT, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT WITH THE COUNTY OF LOS ANGELES, THROUGH THEODORE ROBINS FORD, COSTA MESA, CA, AND AUTHORIZING THE PURCHYASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $424,800

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The seventeen (17) Crown Victoria Police Interceptor vehicles for the Modesto Police Department were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the Purchasing Division issued a request for quote to verify pricing on competitively bid contracts with the City of Sacramento, the County of Los Angeles and the State of California. City staff requested pricing from the local vendor, Heritage Ford. The local vendor responded that they could not bid at this time due to a lack of information from Ford Motor Company, and

WHEREAS, City staff determined that by accessing the terms of a competitively bid contract with the County of Los Angeles, through Theodore Robins Ford, Costa Mesa, CA, the City will select the bid that best suits the City's needs, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-5511, 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. Per Modesto Municipal Code Section 8-3.204(d) the Purchasing Manager may determine that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. By "accessing the terms" through the contract with the County of Los Angeles, the purchase of these vehicles will conform to MMC Section 8-3.204(d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of seventeen (17) Crown Victoria Police Interceptor vehicles, for the Modesto Police Department through the Public Works Department, Fleet Services Division, by "accessing the terms" of a competitively bid contract with the County of Los Angeles, through Theodore Robins Ford, Costa Mesa, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $424,800.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-072

A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTH DAY IN THE PARK FESTIVAL, 2010" AT GRACEADA PARK, AND ALLOWING THE SALE OF MERCHANDISE IN THE PARK DURING THE EVENT

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1992, the City Council, by Resolution No. 92-129, acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizens' Advisory Committee on Recycling (CACOR) sponsors the event, and the 21st Annual "Earth Day in the Park" will be held on Saturday, April 17, 2010, at Graceada Park, and

WHEREAS, the event provides a forum for merchants to display and sell their "environmentally friendly" merchandise, and for the creation of a "festival atmosphere", while giving the public an opportunity to make purchases of positive benefit to the environment, and

WHEREAS, "Earth Day in the Park Festival, 2009" had over 100 vendor booths, and approximately 8,000 attendees, and

WHEREAS, as in prior years, CACOR seeks Council approval for the sale of merchandise in the park during the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby affirms its co-sponsorship of "Earth Day in the Park Festival, 2010", at Graceada Park, to be held on April 17, 2010.

BE IT FURTHER RESOLVED that it hereby approves the sale of merchandise at Graceada Park during the "Earth Day in the Park Festival, 2010" event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-073

RESOLUTION APPROVING A FIRST AMENDMENT TO AGREEMENT WITH SKYWEST AIRLINES, INC., A UTAH CORPORATION, FOR CONTINUED USE OF AIRPORT FACILITIES TO OPERATE PASSENGER SERVICES AT MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT

WHEREAS, SkyWest Airlines has been providing passenger service from the Modesto City-County Airport to San Francisco International Airport since May 26, 1998, through a lease agreement, and

WHEREAS, the current lease between SkyWest and the City expired on December 31, 2009, and

WHEREAS, staff is proposing a First Amendment to the Lease Agreement, which will extend the agreement annually, and increase landing fee charges from $.66 to $.88 per thousand pounds gross landing weight, and

WHEREAS, SkyWest agrees with these provisions and has requested a 180-day termination notice clause be added to the First Amendment, and

WHEREAS, increasing landing fees will bring SkyWest in line with other air carriers using the Modesto Airport,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to Agreement with SkyWest Airlines, Inc., a Utah Corporation, for continued use of airport facilities to operate passenger service at Modesto City-County Airport.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion be duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-074

A RESOLUTION APPROVING THE SPECIFICATIONS FOR THE PROJECT TITLED, "COMMUNICATIONS TOWER EQUIPMENT SYSTEM PROCUREMENT FOR JENNINGS ROAD WASTEWATER TREATMENT FACILITIES," ACCEPTING THE BID AND APPROVING A SUPPLIER AGREEMENT WITH RADCO CONSTRUCTION IN THE AMOUNT OF $19,698.11, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUPPLIER AGREEMENT

WHEREAS, specifications have been prepared for the Communications Tower Equipment System Procurement for Jennings Road Wastewater Treatment Facilities project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Communications Tower Equipment System Procurement for Jennings Road Wastewater Treatment Facilities project were opened at 11:00 a.m. on February 2, 2010, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $19,698.11 received from RADCO Construction be accepted as the lowest responsible bid and the supplier agreement be awarded to RADCO Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the specifications for the Communications Tower Equipment System Procurement for Jennings Road Wastewater Treatment Facilities, accepts the bid of RADCO Construction in the amount of $19,698.11, and approves the supplier agreement with RADCO Construction for the Communications Tower Equipment System Procurement for Jennings Road Wastewater Treatment Facilities.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-075

A RESOLUTION ADOPTING CEQA ADDENDUM (#EA/PW 2008-22) TO THE CITY OF MODESTO WASTEWATER MASTER PLAN UPDATE MASTER ENVIRONMENTAL IMPACT REPORT (SCH # 2006052076) FOR RADIO-FREQUENTY (RF) DATA COMMUNICATIONS FACILITIES BETWEEN PRIMARY AND SECONDARY TREATMENT PLANTS

WHEREAS, the City of Modesto operates and maintains a primary wastewater treatment system at the south end of Sutter Avenue in the City of Modesto and a secondary wastewater treatment system and wastewater reclamation facilities at 7007 Jennings Road, and

WHEREAS, real-time data communication between the respective facilities is of critical importance to the effective operation of the system, and

WHEREAS, RF data communication represents an effective technology for such communication, and

WHEREAS, on March 13, 2007, by Resolution No. 2007-178, the City Council certified the City of Modesto Wastewater Master Plan Update Master Environmental Impact Report (SCH # 2006052076) and adopted the City of Modesto Wastewater Master Plan, and

WHEREAS, Section 15164 of the CEQA Guidelines relating to preparation of an Addendum to an EIR provides for a lead agency to prepare an Addendum to a previously certified EIR where some changes or additions are required but the conditions requiring preparation of a subsequent EIR or Negative Declaration have not occurred, and

WHEREAS, the City of Modesto Utility Planning and Projects Department has prepared an Addendum to the City of Modesto Wastewater Master Plan Update Master Environmental Impact Report (SCH # 2006052076) as provided for by CEQA, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the City of Modesto Wastewater Master Plan Update Master Environmental Impact Report (SCH # 2006052076) and the Addendum to the MEIR (EA/PW 2008-22), and based on the substantial evidence provided in said MEIR and Addendum makes the following findings:

1. The recitals set forth above are true and correct.

2. No Substantial changes are proposed to the project as set forth in the EIR which would require major revisions of the EIR due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified effects.

3. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which would require major revisions of the previous EIR due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified effects.

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 previous EIR was certified as complete shows any of the following:

    a. That the project would have one or more significant effects not discussed in the previous EIR,
    b. That significant effects previously examined would be substantially more severe that shown in the previous EIR,
    c. That mitigation measures or alternative previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project,
    d. That mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects of the project.

5. The EIR and Addendum reflect the independent judgment of the lead agency.

6. The City of Modesto Wastewater Master Plan Update Master Environmental Impact Report (SCH # 2006052076) and the Addendum thereto (EA/PW 2008-22) provide the substantial evidence to support findings 1 through 6, above.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the CEQA Addendum (EA/PW 2008-22) to the City of Modesto Wastewater Master Plan Update Master Environmental Impact Report (SCH # 2006052076), a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Utility Planning and Projects 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 Deputy Director of Utility Planning and Projects, 1010 Tenth Street, 4th Floor, Modesto, CA 95354.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-076

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A PARKING ACCESS AND REVENUE CONTROL SYSTEM FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO AMANO McGANN, INC., SACRAMENTO, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE THE AGREEMENT FOR AN ESTIMATED TOTAL COST OF $790,427.33

WHEREAS, the City Council, on April 24, 2007, by Resolution No. 2007-231, authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase and installation of a parking automated attendant system (hardware/software) for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, and

WHEREAS, the Purchasing Division issued RFP No. 0809-02 to twenty-four (24) prospective proposers, none of which were local companies, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, RFP's were formally opened in the City Clerk's office. Of the twenty-four (24) prospective proposers, three (3) companies chose to respond. All three (3) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff personnel and one representative from the City of Stockton evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the purchase and installation of a parking access and revenue control system for the Public Works Department, Fleet Services Division, to Amano McGann, Inc., Sacramento, CA, for an estimated total cost of $790,427.33, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the purchase and installation of a parking access and revenue control system for the Public Works Department, Fleet Services Division, to Amano McGann, Inc., Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, the Parking Fund has funds budgeted for the purchase, installation and implementation of the parking garage automation system in Appropriation Unit: 6000-350-P597-6040,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase and installation of a parking access and revenue control system for the Public Works Department, Fleet Services Division, to Amano McGann, Sacramento, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated total cost of $790,427.33.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-077

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH. NO. 2007072023): SALE OF PROPERTY OF 629 2ND STREET (CITY OF MODESTO)

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

WHEREAS, the City of Modesto has proposed the demolition of the Old Fire Station No. 2 Building and Pump House No. 5 and the sale of the property located at 629 2nd Street, Modesto, 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 MFD 2009-01 ("Initial Study") reviewed the demolition of the Old Fire Station No. 2 Building and Pump No. 5 and the sale of the property at 629 2nd Street, Modesto, 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 10, 2010, 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 2, 2010, 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 demolition of the Old Fire Station No. 2 Building and Pump No. 5 and the sale of the property at 629 2nd Street, Modesto, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

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

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
MFD No. 2009-01

For the proposed:

Fire Station No. 2

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

November 13, 2009

Updated: October 2008

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APPENDICIES

A. An Evaluation of Old Fire Station Number 2

B. An Evaluation of Pump Station Number 5

C. Ellen LaCoste, Senior Administrative Office Assistant, McHenry Museum, email correspondence to Ken Horillo, November 16, 2009

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Fire Station No. 2 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: Fire Station No. 2

B. Address or Location: Property located on the north side of Sierra Dr., southwest of 2nd Street, 629 2nd Street.

C. Applicant: City of Modesto

D. City Contact Person: David Wage, Associate Planner

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

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

F. Current Zoning Classification(s): R-2, Medium Density Residential

G. Surrounding Land Uses:

North:	High Density Residential, R-3
South:	Medium Density Residential, R-2
East:	High Density Residential, R-3 and Medium Density Residential, R-2
West:	High Density Residential, R-3 and Medium Density Residential, R-2

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):

I. The project involves the sale and possible alteration or demolition of the property at 629 2nd Street which includes the abandoned Fire Station No. 2 Building. The Fire Station No. 2 is building listed as City of Modesto Landmark Site No. 7. Modesto Pump House No. 5 is also located on the subject property; however, it is not listed as a City Landmark Site.

J. Other Public Agencies Whose Approval is Required: None.

III. FINDINGS/DETERMINATION

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

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

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

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

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

5. Currency of the Master EIR Document

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

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

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

This project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	[ ]	[ ]	[ ]	[X]
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ ]	[ ]	[X]
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	[ ]	[ ]	[ ]	[X]
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project includes the sale and possible alternation or demolition of an existing building which would not generate additional traffic or result in additional trips.

(2) The project will not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) The project includes the sale and possible alternation or demolition of an existing building which would not generate additional traffic or result in additional trips.

(4) The project includes the sale and possible alteration or demolition of the old Fire Station No. 2 which is currently not in use. The area is now served by the new Fire Station No. 2 located 420 Chicago Ave. The sale of the Old Fire Station No. 2 will not impact emergency response times.

(5) The project will not have result in less parking required by the Municipal Code.

(6) The project includes the sale and possible alteration or demolition of an existing building which would not impact the Regional Transportation Plan, the Sustainable Communities Strategy, and the Bicycle Action Plan.

(7) The project includes the sale and possible alteration or demolition of a former fire station and would not result in increased energy consumption in excess of what was anticipated in the General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

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

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

Discussion:

No mitigation measures from the MEIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
5) The proposed project would create objectionable odors affecting a substantial number of people.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project would not have a significant effect on the ambient air quality.

(2) There is no new development associated with the project. The project includes the sale and possible alteration or demolition of Fire Station No. 2.

(3) The project does not conflict with the air quality policies in the Urban Area General Plan. The project includes to the sale and possible alteration or demolition of Fire Station No. 2.

(4) The project would not result in pollutant concentrations in excess of those expected to occur as a result of the implementation of the Urban Area General Plan. The project includes the sale and possible alteration or demolition of Fire Station No. 2.

(5) The proposed project will not produce objectionable odors. The project includes the sale and possible alteration or demolition of Fire Station No. 2.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project includes the sale and possible alteration or demolition of Fire Station No. 2. Any construction or demolition work is required to comply with the requirements of the Modesto Noise Ordinance. No additional mitigation measures are necessary.

(2) The project includes the sale and possible alteration or demolition of Fire Station No. 2. Any construction or demolition work is required to comply with the requirements of the Modesto Noise Ordinance. No additional mitigation measures are necessary.

(3 & 4) The project includes to the sale and possible alteration or demolition of Fire Station No. 2. Ambient noise levels will not be impacted.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	[ ]	[ ]	[ ]	[X]
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	[ ]	[ ]	[ ]	[X]
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	[ ]	[ ]	[ ]	[X]
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the General Plan land use policies. The project site is within the urbanized area of the City. The site is currently developed and no agricultural land will be converted for the development of the proposed projects.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project is developed and will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the water supply policies in the General Plan.

(2) The project includes the sale and possible alteration or demolition of an abandoned fire station. Water demand for the project will not be impacted and there are sufficient water supplies to serve the project.

(3) The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Increased Demand for Sanitary Sewer Services				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	[ ]	[ ]	[ ]	[X]

Discussion:

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

(2) The project will not generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.

(3) The project will not generate sewage flows great than the existing capacity needed to serve the project. The project includes the sale and possible alteration or demolition of Fire Station No. 2.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

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

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	[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 a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	[ ]	[ ]	[ ]	[X]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.

(5) There is no conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes: AH-6, AH-7 and MEIR Table V-8-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

A records search was conducted with the Central California Information Center (CCIC) at the California State University, Stanislaus. The records search was made for the project area, located on the Salida USGS 7.5-minute quadrangle map in Stanislaus County. The search included review of the CCIC's maps for the specific project area and the immediate vicinity of the project area, review of the National Register of Historic Places (NRHP), the California Register of Historic Places (CRHR), the California Inventory of Historic Resources (1976), the California Historical Landmarks, the California Points of Historical Interest Listing, the Directory of Properties in the Historic Property Date File, The Caltrans State and Local Bridge Survey , the Survey of Surveys (1989), GLO Plats, and other pertinent historic data available at the CCIC.

Historic Properties

Based on the data in the CCIC files, there are three identified historic properties for the parcel and listings at 629 2nd Street.

1) Fire Station No. 2 (1924) – City of Modesto Landmark Preservation Site #7
2) Fire Bell – City of Modesto Landmark Preservation Site #15
3) "Clamper" monument, located at the Bell installation, dedicated to Modesto firefighters, Monument representing Estanislao Chapter No. 58 E Clampus Vitus.

In 1997 all of the City of Modesto Landmark Preservation Sites were reviewed by Carey & Co. and ranked according to the NRHP "survey codes" and sites Fire Station No. 2 and the Fire Bell (Nos. 7 and 15) were not considered to be in the 1, 2, or 3 ranking category. Although designated local landmarks, a records check verified that these project sites are not listed on the National Register of Historic Places, California Register of Historical Resources, as California Historical Landmarks or Points of Interest. Furthermore, they are not listed in the California Office of Historic Preservation's Directory of Properties in the Historic Property Data File for Stanislaus County.

Mitigation Measure AH-7 requires the completion of a Historic Resource Evaluation Report (HRER) for projects that involve the alteration or demolition of buildings over 50 years old. To satisfy mitigation measure AH-7 and determine if the properties at 629 2nd Street are of State significance, A HRER was conducted by Peak and Associates, Inc. (November 2009). Additional research on the historic background of the construction and use of the site was conducted at the California Room of the California State Library, through the McHenry Museum, and the City of Modesto Fire Department historical photograph and records. The City of Modesto Fire Department provided their documents "Modesto Fire Department History" and "Chronological History of the Modesto Fire Department."

Fire Station No. 2

According to the HRER, Fire Station No. 2 was constructed in 1924 in order to better protect residential areas of the City from fires. The building was constructed with limited design elements that are reflective of a Craftsman style. Significant changes to the building from its original design include the removal of a third floor bell tower and exterior chimney, as well as the replacement of the original double garage doors. A new Fire Station was constructed at 420 Chicago Avenue in 2008 to replace the old Fire Station No. 2 at 629 2nd Street, reflecting in part changing needs and shifts in population over the years.

For the purposes of CEQA, an historical resource is a resource listed in, or determined eligible for listing in the California Register of Historical Resources. To be eligible for listing in the California Register of Historic Resources (CRHR), a structure must typically be over 50 years old, must have historic significance, and must retain its physical integrity. Fire Station No. 2 is greater than 50 years old and has retained its physical integrity. Peak and Associates, Inc., evaluated the Fire Station No. 2 for historic significance using the four established CRHR criteria:

Criterion 1 (Event): *Resources that are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage:*

"The fire station is not associated with events important in our past or that have made a significant contribution to the broad patterns of California's history and cultural heritage. It is simply a former part of the fire suppression system of the City of Modesto, and is representative of a period when the growth in population brought about a need for more protection. The larger areal extent of the City brought a need for fire stations in other parts of the City to provide shorter response times when a fire broke out, and the two stations (Fire Station No. 2 and Fire Station No. 3) were added in the mid-1920s. Similarly, the more modern growth of the City beginning in the 1970s, led to the construction of five new stations between 1980 and 2005, again meeting the needs of both modernization and reducing response times in newer portions of the City." [1]

[1] *Fire Station No. 2 Historic Resource Evaluation Report (Nov. 2009), Peak and Associates, Inc.*

Criterion 2 (Person): *Resources that are associated with the lives of persons important in out past:*

"The person most noted in the history of fire suppression efforts in the City of Modesto is George Wallace. He was the first paid hire for the Department, reportedly hired because of his ability to work well with horses; the acquisition of motorized fire fighting equipment made this skill less important very soon thereafter. Wallace continued to serve the Department, rising ultimately to serve as the first fire chief. He is responsible for the expansion of facilities and purchase of modern equipment in the 1920s. But his work with a local municipal department does not raise his importance to that of a person important in Modesto's past. He served a role for many years as a civil servant, but his actions and achievements are in line with what anyone would had done to ensure fire protection for the community. There are no other personalities associated with the building complex, so it can be concluded the building is not eligible under CRHR Criterion (B) 2 for an association with the lives of persons important in our past."

Criterion 3 (Design/Construction): *Resources that embody distinctive characteristics significant of a type, period, region, or method of construction, or represents the work of an important creative individual, or possess high artistic value:*

"Modesto Fire Station No. 2 had a limited number of design elements added to an otherwise utilitarian design. It is Craftsman Style, but does have most of the characteristics that define the style. As stated before, the removal of the third floor, an exterior chimney and replacement of the original double garage doors has damaged the integrity of the building. It is somewhat unique, but does not exemplify or embody any outstanding architectural characteristics of a particular style or method of construction. Similarly, it does not represent the work of an important creative individual, or possesses high artistic values."

Criterion 4 (Information Potential): *Resources that have yielded, or may be likely to yield, information important to prehistory:*

"The Sanborn maps indicate that the parcel was vacant except for the pump station in 1919; there is no earlier building or occupancy of the site indicated on the site. This criterion relates to archeological values; there are no earlier homes indicated on the property that could have left archeological deposits. Obviously, for a building of the modern era, there are no subsurface remains associated and this criterion is not applicable. So it can be concluded that the property cannot yield information important in history."

According to the HRER, it can be concluded that the building is not eligible for the California Register of Historical Resources. There will be no impact to historical resources as a result of the sale of the site, or from the alteration or demolition of the building." [2]

Pump Station No. 5

In addition to Fire Station No. 2, there is an abandoned pump station located on the property at 629 2nd Street that is more than 50 years old. A Historic Resource Evaluation Report (HRER) was completed for Pump Station No. 5 by Peak and Associates, Inc. The report determined Pump Station No. 5 does not meet the criteria for listing in the Register of California Historic Resources and thus the alteration or demolition of the Pump Station would not result in a significant CEQA impact.[3] Please see the attached HRER prepared by Peak and Associates, Inc. for additional information on the Pump Station (Appendix B).

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[2] *Fire Station No. 2 Historic Resource Evaluation Report (Nov. 2009), Peak and Associates, Inc.*
[3] *Pump Station No. 5 Historic Resource Evaluation Report (Nov. 2009), Peak and Associates, Inc*

Fire Bell and Clamper Monument

In addition to Fire Station No. 2, the CCIC records search noted the Fire Bell (City of Modesto Landmark Preservation Site #15) and a Clampers Monument as two properties of possible historical significance located at 629 2nd Street. The Fire Bell was originally installed in 1884 behind Fire Station No. 1, 715 10th Street, as part of the hose tower and was used to summon firefighters to fire calls from 1884 to the mid 1920's. When the use of the Bell at Fire Station No. 1 was discontinued, the Bell was dedicated in Graceada Park on Arbor Day, March 7, 1928 by Mrs. Ella Maze and Fire Chief George Wallace. In the mid 1970's when Needham Avenue was widened, the monument was dismantled and the bell moved to the children's play area of the park. The Fire Bell was later moved to Fire Station No. 2 (629 Second Avenue) where a monument was constructed by E Clampus Vitus and dedicated on October 18, 1991, to City of Modesto Firefighters. The Fire Bell was designated a City of Modesto Landmark Preservation Site by the City Council on April 28, 1992 (Modesto City Council Resolution No. 92-187). Following the discontinued use of the Old Fire Station No. 2 at 629 2nd Street, the Fire Bell and Clampers Monument were relocated to the new Fire Station No. 2, located at 420 Chicago Avenue, Modesto.[4]

As detailed above, the significance of the Fire Bell and Clamper Monument, were the Bell and Monument themselves, rather than their former locations, including 629 2nd Street. The Fire Bell and Clamper Monument will not be adversely impacted as a result of the project. These properties have been preserved and relocated to a display at the New Fire Station No. 2 (420 Chicago Avenue). The Fire Bell will continue to be listed as City of Modesto Landmark Preservation Site #15. Therefore, there will be no significant impact to historical resources as a result of the proposed project.

Archeological Resources

The records search indicated there are no recorded archeological resources within the project site.[5] The report concluded there is a moderate sensitivity for historical archeological resources that might be found under the surface during the excavation for the project (e.g. foundations and historic debris and historic artifacts over 45 years old associated with buildings and structures that were formerly on the block). The project is not within a City-identified archeological resource study area.[6] Therefore, no further research for prehistoric deposits is warranted without specific information indicating the need for further investigation.

(1) and (2) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan? The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory?

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[4]Ellen LaCoste, Senior Administrative Office Assistant, McHenry Museum, email correspondence to Ken Horillo, November 16, 2009.

[5] Robin Hards, Assistant Research Technician, Central California Information Center, California Historical Resources Information System, written correspondence to Ken Horillo, July 28, 2008.

[6] City of Modesto Community and Economic Development Department, *Master Environmental Impact Report for the City of Modesto Urban Area General Plan and Related Amendments to the Urban Area General Plan,* prepared by Jones&Stokes, February 2003, Figure V-8-2, Archeological Resources Zones.

The project is consistent with the following General Plan Policies (VII.F.2[c] and VII.F.2[d]), which are designed to protect historical resources within the City:

UAGP Policies:

VII.F.2[c] The modification of historic structures and places can be mitigated through the application of existing regulations and consultation with the State Historic Preservation Officer, an interim procedure whereby the City evaluates proposals to modify historic structure and develops a program to reduce the impacts on an individual basis. Projects that require federal funding or permits will be addressed through Section 106 complacence in consultation with SHPO. If the project appears to have impacts on eligible or potentially eligible structures, the project proponent will resolve adverse affects through consultation with SHPO. Demolition of significant (eligible) buildings and removing landmarks from the Modesto inventory cannot be mitigated to a less than significant level and will require CEQA review.

VII.F.2[d] When structures or areas of historical significance more than 50 years old are proposed for demolition, alteration, or where construction is proposed with 100 feet of that structure, the applicant shall submit data to the City regarding the structure's history or locations prepared by a qualified architectural historian. The City shall evaluate the historical significance of the proposal and require mitigation measures be implemented to preserve all structures and places it deems to be historically significant.

The proposed project would include the sale and possible alteration or demolition of the property located at 629 2nd Street. General Plan Policy VII.F.2[d] requires a Historic Resource Evaluation Report for properties greater than 50 years old to determine if they are historically significant. HRER was conducted by Peak and Associates, Inc. (November 2009) for the Old Fire Station No. 2 and Pump Station No. 5 located at 629 2nd Street to determine if the properties are historically significant. As noted above, for the purposes of CEQA, a historical resource is a resource listed in, or determined eligible for listing in the California Register of Historical Resources. The HRER(s) concluded Fire Station No. 2 and Pump Station No. 5 do not meet the criteria for listing as a California Historical Resource and therefore, their alteration or demolition are not considered significant historical impacts with respect to CEQA (see attached HRER(s) for additional information).

Fire Station No. 2 and the Fire Bell are listed as City of Modesto Landmark Preservation Sites. Although the Old Fire Station No. 2 may be sold, altered or demolished, it will not be removed from the list of City of Modesto Landmarks. The Station has been memorialized in a historical display located at the new Fire Station No. 1 Building. As discussed above, the significance of the Fire Bell is the Bell itself, rather than location of 629 2nd Street. In 2008 the Bell was been relocated to the new Fire Station No. 2 at 420 Chicago Ave. Fire Station No. 2 and the Fire Bell will not be removed from the list of local landmarks, and therefore the project does not have a significant impact to historical resources with respect to CEQA.

(3) The proposed project would modify or demolish a structure more than 50 years in age?

See discussion above for 1 and 2.

(4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources?

See discussion above for 1 and 2.

(5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the storm drainage policies in the Urban Area General Plan.

(2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) There is no new development associated with the proposed project. The project includes the sale and possible alteration or demolition of the property at 629 2nd Street.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	[ ]	[ ]	[ ]	[X]
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	[ ]	[ ]	[ ]	[X]
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	[ ]	[ ]	[ ]	[X]
6) The proposed project would violate water quality standards or waste discharge requirements.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project is not located within a 100-year flood plain and is an existing residential use. No new development is proposed

(4) The project is not located within a 100-year flood plain.

(5) There is no new development associated with the proposed project. The project is limited to the sale and possible alteration or demolition of the Fire Station No. 2 Building located at 629 2nd Street.

(6) The project will not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation. There is no new development associated with the proposed project.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff. There is no new development associated with the proposed project.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would eliminate parks or open space.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The sale of Fire Station No. 2 would not impact parks or open space.

(3) There is no development proposed as part of the project. The sale of Fire Station No. 2 would not cause a significant increase the use of existing neighborhood or regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project includes the sale of a Fire Station No. 2, which would not conflict with the policies relating to school in the Urban Area General Plan.

(2) There is no new development associated with the project. The project would not conflict with SB50/Propisition 1A funding provisions, or succeeding measures. The building is an existing residence.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The services once provided by the vacant Fire Station No. 2 are now provided by the Station at 420 Chicago opened in 2008.

(3) The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) There is no new development associated with the project. The project includes the sale of an existing residential building.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	[ ]	[ ]	[ ]	[X]
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(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 would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the energy policies in the General Plan

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) There is no development associated with the project. Surrounding views will not be significantly impacted by the sale of the property.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is consistent with the Mixed Use land use designation in the General Plan.

(2) There is no development proposed by the project. The project includes the sale of an existing residential building. The project would not divide an established community.

(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating to climate change in the Urban Area General Plan. The project includes the sale of an existing building. The project would not have a significance effect on climate change.

(2) See discussion above for No. 1

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

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

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

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

Traffic and Circulation:

None.

Degradation of Air Quality:

None.

Generation of Noise:

None.

Effects on Agricultural Lands:

None.

Increased Demand for Long-Term Water Supplies:

None.

Increased Demand for Sanitary Sewer Services:

None.

Loss of Sensitive Wildlife and Plant Habitat:

None.

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

a. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

b. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

c. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

d. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

e. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Increased Demand for Storm Drainage:

None.

Flooding and Water Quality:

None.

Increased Demand for Parks and Open Space:

None.

Increased Demand for Schools:

None.

Increased Demand for Police Services:

None.

Increased Demand for Fire Services:

None.

Generation of Solid Waste:

None.

Generation of Hazardous Materials:

None.

Geology, Soils, and Mineral Resources:

None.

Energy:

None.

Effects on Visual Resources:

None.

Land Use and Planning:

None.

Climate Change:

None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-078

RESOLUTION DECLARING MODESTO FIRE STATION 2, LOCATED AT 629 2ND STREET, MODESTO, AS SURPLUS, AND AUTHORIZING THE DEMOLITION OF THE PROPERTY

WHEREAS, the Fire Department, in coordination with the Parks, Recreation and Neighborhoods Department petitioned the Landmark Preservation Commission (the "Commission") for the removal of the local historical designation of Modesto Fire Station 2, located at 629 2nd Street (the "Property"), and

WHEREAS, the Fire Department and the Parks, Recreation and Neighborhoods Department met with the Commission on two occasions and provided a site inspection which the Commission took part in, and

WHEREAS, at a special meeting on October 27, 2008, the Commission supported the removal of the Property from the Landmark Designated Sites List, allowing for the disposal of the building, and

WHEREAS, the Commission's removal of the site designation included a request that the Fire Department provide a documented history of the site which would include drawings, photographs and a written history of the building's use, which has occurred, and

WHEREAS, as a part of the budget reduction process, the City Council has elected to include this site on a list of properties that it considers surplus, and has requested that the Property be sold. Prior to the disposal of the Property the landmark designation should be removed, and

WHEREAS, on February 3, 2009 and February 24, 2009, the Fire Department requested the Council authorize the removal of the landmark status, declaring the Property surplus and authorizing the demolition and sale of the Property, and

WHEREAS, at both Council meetings a resident raised concerns regarding the California Environmental Quality Act (CEQA) process, and

WHEREAS, on February 24, 2009, Council directed staff to return to Council after addressing the concerns raised, and

WHEREAS, at the request of the Fire Department, staff from Planning and Parks, Recreation and Neighborhoods assisted in the CEQA process, including the preparation of the Initial Study and the Finding of Conformance wit the General Master Plan EIR, and

WHEREAS, on January 25, 2010, the Planning Commission determined the General Plan conformity for the disposition of real property located at 629 2nd Street, Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares Modesto Fire Station 2, located at 629 2nd Street, Modesto, as surplus, and authorizes the demolition of the Property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-079

RESOLUTION APPROVING THE SALE OF PROPERTY LOCATED AT 629 2ND STREET, MODESTO, CA

WHEREAS, the Fire Department, in coordination with the Parks, Recreation and Neighborhoods Department petitioned the Landmark Preservation Commission (the "Commission") for the removal of the local historical designation of Modesto Fire Station 2, located at 629 2nd Street (the "Property"), and

WHEREAS, the Fire Department and the Parks, Recreation and Neighborhoods Department met with the Commission on two occasions and provided a site inspection which the Commission took part in, and

WHEREAS, at a special meeting on October 27, 2008, the Commission supported the removal of the Property from the Landmark Designated Sites List, allowing for the disposal of the building, and

WHEREAS, the Commission's removal of the site designation included a request that the Fire Department provide a documented history of the site which would include drawings, photographs and a written history of the building's use, which has occurred, and

WHEREAS, as a part of the budget reduction process, the City Council has elected to include this site on a list of properties that it considers surplus, and has requested that the Property be sold. Prior to the disposal of the Property the landmark designation should be removed, and

WHEREAS, on February 3, 2009 and February 24, 2009, the Fire Department requested Council authorize the removal of the landmark status, declaring the Property surplus and authorizing the demolition and sale of the Property, and

WHEREAS, at both Council meetings a resident raised concerns regarding the California Environmental Quality Act (CEQA) process, and

WHEREAS, on February 24, 2009, Council directed staff to return to Council after addressing the concerns raised, and

WHEREAS, at the request of the Fire Department, staff from Planning and Parks, Recreation and Neighborhoods assisted in the CEQA process, including the preparation of the Initial Study and the Finding of Conformance wit the General Master Plan EIR, and

WHEREAS, on January 25, 2010, the Planning Commission determined the General Plan conformity for the disposition of the property located at 629 2nd Street, Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sale of the property located at 629 2nd Street, Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carricd and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-080

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET APPROPRIATING FUNDS FROM THE GENERAL FUND RESERVE ($20,000) AND APPROPRIATE IN ACCOUNT NUMBER 0100-180-1810-0223

WHEREAS, as a part of the budget reduction process, the City Council has elected to include Old Fire Station 2, located at 629 2nd Street, Modesto, on a list of properties that it considers surplus, and has requested that the property be sold, and

WHEREAS, on January 25, 2010, the Planning Commission determined the General Plan conformity for the disposition of real property located at 629 2nd Street, Modesto, and

WHEREAS, funding for the demolition is to come from General Fund Reserves in amount of $20,000, which is to be repaid upon the sale of the property. The balance of the proceeds from the sale will be recognized as revenue by the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009-2010 Operating Budget is hereby amended as indicated below:

Appropriate:

From:	0100-800-8000-8003	$20,000
To:	0100-180-1810-0223	$20,000

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-081

A RESOLUTION ADOPTING CITY OF MODESTO ANNEXATION APPLICATION SUBMITTAL REQUIREMENTS

WHEREAS, the City of Modesto has established a Process Improvement program for development processes, which program has identified the need for increased clarity and specificity in submittal requirements for development applications, and

WHEREAS, on February 27, 2007, the City Council, by Resolution No. 2007-154, formally established submittal requirements for several types of development applications, and

WHEREAS, after a public hearing held on November 16, 2009, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No.2009-29, that adoption of submittal requirements for annexation applications is required by public necessity, convenience, and general welfare for the following reasons:

1. Establishment of submittal requirements ensures that adequate information is available on which to make decisions regarding annexation projects.

2. California state law requires that local jurisdictions have a standard process by which an application is determined to be complete for processing.

and,

WHEREAS, said matter was set for a public hearing of the City Council to be held on March 2, 2010, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that adoption of annexation application submittal requirements is consistent with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-29 and quoted above,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Annexation Application Submittal Requirements as shown in **Exhibit "A" attached** hereto and incorporated herein by reference are hereby adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Annexation
Submittal Requirements

GENERAL REQUIREMENTS:

- ☐ 1. The Uniform Development Application must be typed or printed and filled in completely.
  - ☐ a. If the applicant is not the property owner(s), the property owner(s) shall designate the applicant as the authorized agent to act on his or her behalf and both shall sign this application.
- ☐ 2. Financial Interest Disclosure Form.
- ☐ 3. Environmental Information Form if required, as determined by the Planning Division per the California Environmental Quality Act.
- ☐ 4. Title Report providing evidence of property ownership and Williamson Act status of property.
- ☐ 5. Maps:
  - ☐ a. Five (5) copies of the annexation map conforming to the attached requirements.
  - ☐ b. Five (5) copies of a concept plan for development of the site
  - ☐ c. Size: sheets not less than 18" X 24", nor greater than 32" X 42" in size.
  - ☐ d. All maps shall be folded to a size of approximately 8½" X 11".
  - ☐ e. Six (6) sets of plans reduced to 8½" X 11" and twenty five (25) sets reduced to 11" X 17".
  - ☐ f. One (1) set provided in electronic format on CD or DVD, AutoCAD or .jpg formats.
- ☐ 6. Draft LAFCO annexation application (available at http://www.stanislauslafco.org/)
- ☐ 7. Copy of recent tax assessment showing all districts serving the property.
- ☐ 8. Legal description of property to be annexed
- ☐ 9. All applicable filing fees (see adopted fee schedule).

UTILITIES REQUIREMENTS:

Water:

- ☐ 1. Water demand calculations for all major projects are required. Water demand calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.
- ☐ 2. Identify and demonstrate the adequacy of the anticipated water supply for the project.

Wastewater:

- ☐ 1. Wastewater capacity calculations for all major facilities are required. Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

Storm Drainage / Treatment:

- ☐ 1. Identify and demonstrate the capacity of the downstream facilities expected to accommodate storm drainage flows from the proposed project area, where proposing to utilize downstream facilities for storm drainage (hydrology and hydraulic reports).

☐ 2. Storm drainage capacity calculations for all major projects are required (including temporary and permanent facilities). Design calculations supporting all facility assumptions shall be land-use based and generated for total build out of the project.

☐ 3. Soils Report.

ANNEXATION MAP REQUIREMENTS:

Maps shall be clearly and legibly reproduced and shall include the following information:

☐ 1. A key or location map on which shall be shown the general area including adjacent property, subdivisions and roads.

☐ 2. Legend including:

- ☐ a. Addresses and APNs of properties proposed to be annexed.
- ☐ b. Date, north point, scale and sufficient description to define location and boundaries of the proposed annexation.
- ☐ c. Name, address, phone and fax number for the recorded owner(s).
- ☐ d. Name, business address, phone and fax number for the person(s) who prepared the map.
- ☐ e. Acreage of proposed annexation area to the nearest tenth ($1/10^{th}$) of an acre.

Traffic requirements:

☐ 1. The names, locations, existing widths and centerlines of all existing roads, streets, highways, and rights-of-way, both public and private, in the vicinity of the project site. Public and private facilities shall be clearly distinguished.

Utility requirements:

☐ 1. Locations and size of all pipelines and structures used in connection therewith.

☐ 2. Alignment and location of all backbone water facilities (i.e. pipes eight inches and larger, wells, wellhead treatment facilities, tanks, booster pump stations, ASR wells, connections to adjacent facilities, etc.).

☐ 3. Alignment and location of all backbone wastewater facilities (i.e. pipes ten inches and larger, lift stations, connections to adjacent facilities, etc.).

☐ 4. Alignment and location of all backbone storm drain facilities (i.e. pipes ten inches and larger, lift stations, detention basins, outfall facilities, basin service roads, connection to adjacent facilities, flood hazard areas, etc.), as applicable.

☐ 5. Location, size, and character of all existing private and public utilities, both above and below ground.

☐ 6. The widths, location and purposes of all existing and/or proposed easements.

General Requirements:

☐ 1. Outline of the area proposed to be annexed.

☐ 2. Parcels within and surrounding the area to be annexed.

☐ 3. Land uses and buildings in the area to be annexed and on surrounding properties.

☐ 4. City limit / boundary lines in the general vicinity of the proposed annexation.

☐ 5. Bearings and distances to quarter-section bounds within the general vicinity of the proposed annexation.

☐ 6. Location, size and type of all existing trees on the property and proposed public property.

☐ 7. Location of all areas adjacent to inundation or storm water overflow and the location, width and direction of flow of all watercourses. If any portion of the map is within the 500-year flood zone or any floodway, depict flood zone / floodway boundaries on map.

Environmental review is required. Unless there has been previous environmental review of the "project" or it is concurrently under environmental review in connection with a zoning application, an "Environmental Information Form" and the environmental processing fee must be submitted with the annexation map (see adopted fee schedule). Make a single check for total fees for annexation map processing and environmental review payable to the City of Modesto.

FOR YOUR INFORMATION: Staff may deem additional submittal information necessary to adequately analyze the project, complete environmental review for the project, or make recommendations to the Planning Commission, Board of Zoning Adjustment or City Council. Completion of the application does not presume approval nor staff support of the application. Such approval is discretionary with the Director, Board of Zoning Adjustment, Planning Commission, and/or City Council. The Board of Zoning Adjustment, Planning Commission, or City Council may deny, modify, or conditionally approve the application.

All entitlement decisions of the Planning Commission or Board of Zoning Adjustment are final unless appealed within fifteen (15) days of the date on which the decision is made. The appeal shall be in writing and filed with the City Clerk. The appeal must set for the specific reasons for the appeal. All applicable fees must accompany appeals. Building permits, certificates of occupancy, or licenses will not be issued until the appeal period has elapsed. If the entitlement decision is appealed, building permits, certificates of occupancy, or licenses will not be issued until the final decision has been made on the appeal.

Please note that for applications involving both discretionary approvals (such as re-zonings and specific plan amendments) and quasi-judicial approvals (such as tentative subdivision or parcel maps), the quasi-judicial application cannot be deemed complete or scheduled for a public hearing until the discretionary application has been approved by the City Council and becomes effective (for actions requiring adoption of an ordinance the action becomes effective 30 days after the second reading of the ordinance).

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-082

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF ROCKWELL REJUVENATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WASTE WATER COLLECTIONS DIVISION, TO FOX LOOMIS, INC., SACRAMENTO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE AN AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $597,610

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for Rockwell rejuvenation services, and

WHEREAS, the Purchasing Division issued RFB No. 0910-04 Rockwell Rejuvenation Services to twenty-one (21) prospective bidders, eight (8) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Two (2) companies chose to respond, neither of which were local companies. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of Rockwell rejuvenation services for the Public Works Department, Waste Water Collections Division, to Fox Loomis, Inc., Sacramento, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $597,610, and

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

to be formally bid. The award of bid and contract for the furnishing of Rockwell rejuvenation services for the Public Works Department, Waste Water Collections Division, to Fox Loomis, Inc., Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 6280-480-5312-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of Rockwell rejuvenation services for the Public Works Department, Waste Water Collections Division, to Fox Loomis, Inc., Sacramento, CA, for a two (2) year period with three (3) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated annual cost of $597,610.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESOLUTION NO. 2010-083

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AND ORDERING THAT THE STANISLAUS COUNTY TAX COLLECTOR BE CREDITED WITH THOSE TAXES

WHEREAS, the City of Modesto ("City") has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"), and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act, and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future, and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens, and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and are authorized to order the County Auditor to credit the delinquent special taxes upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto,

and

WHEREAS, on July 3, 2007, the City Council, by Resolution No. 2007-410, authorized the City Manager to execute a legal services agreement ("Agreement") with Sherman & Feller, a Law Corporation ("Attorney"), a firm experienced and qualified to prosecute such judicial foreclosure actions, and

WHEREAS, Attorney is still under contract to provide said services, and

WHEREAS, in an effort to prevent large delinquencies from accumulating, the City desires to reaffirm an additional administrative foreclosure threshold in the amount of $5,000, and

WHEREAS, this additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto acting as the Legislative Body of all of the City of Modesto Community Facilities Districts that:

1. The City finds that the Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special taxes, and hereby orders that the delinquent special taxes listed on the attached Exhibit A and all future delinquent special taxes as to such property, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

2. City staff in conjunction with special counsel and other City consultants are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2) to request that the applicable County officials remove current and future delinquent special

taxes from the tax rolls.

3. The Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits on redemption prior to entry of judgment as well as on post-judgment redemption, and hereby authorizes Attorney to require payment on its behalf of all costs and all attorneys' fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

4. An additional administrative foreclosure threshold in the amount of $5,000 is reaffirmed. This additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Exhibit "A"

Delinquent Parcels as of January 20, 2010
Missed 3 Installments
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-055-057-000	CFD 2004-1 (Village One #2)	2008	$1,081.94
		2009	$551.79
077-055-083-000	CFD 2004-1 (Village One #2)	2008	$1,081.94
		2009	$551.79
077-055-058-000	CFD 2004-1 (Village One #2)	2008	$1,081.94
		2009	$551.79
077-062-027-000	CFD 2004-1 (Village One #2)	2008	$1,480.86
		2009	$755.24
085-003-090-000	CFD 2004-1 (Village One #2)	2008	$1,154.34
		2009	$588.71
085-034-081-000	CFD 2004-1 (Village One #2)	2008	$1,386.60
		2009	$707.16
085-052-014-000	CFD 2004-1 (Village One #2)	2008	$865.08
		2009	$441.19

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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-084

RESOLUTION SUMMARILY VACATING A 5-FOOT WIDE PUBLIC UTILITY EASEMENT AND A 10-FOOT WATER EASEMENT LOCATED AT 1700 MCHENRY AVENUE IN THE CITY OF MODESTO

WHEREAS, California Streets and Highways Code Section 8333 states that, "The legislative body of a local agency may summarily vacate a public service easement, in any of the following cases: (c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement" and

WHEREAS, the public utility easement and a portion of a water easement to be summarily vacated are more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, and

WHEREAS, the Land Development Engineering Division contacted all affected City departments and public utility companies, and no objections to the proposed vacations have been received, and

WHEREAS, CVS has constructed the public waterline in Briggsmore Avenue and abandoned the waterline located in the easements on 1700 McHenry Avenue, and

WHEREAS, there are no other utilities located within the easements, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The summary vacation of this 5-foot wide public utility easement and a portion of a 10-foot wide water easement at 1700 McHenry Avenue are made pursuant to California Streets and Highways Code Section 8333.

2. Streets and Highways Code Section 8333 allows for the summary vacation of a public service easement when "the easement has been superseded by relocation, or determined

to be excess by the easement holder, and there are no other public facilities located within the easement."

3. California Environmental Quality Act (CEQA) Sec. 15061 (b)(3) exempts all activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. Since this is an abandonment of a utility easement that is no longer needed for utility purposes, it meets the criteria for exemption under this section.

4. City staff will process a Notice of Exemption (NOE) on the California Environmental Quality Act.

5. That from and after the date this resolution is recorded, the public utility easement and the water easement, which are proposed to be summarily vacated, will no longer constitute public easements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the public utility easement and the water easement located at 1700 McHenry Avenue in the City of Modesto, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, is hereby summarily vacated.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to sign the document to vacate the 5-foot wide public utility easement and the 10-foot wide water easement.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder's Office 35 days following the filing of the NOE. From and after the date this resolution is recorded, said easements shall no longer constitute public easements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-085

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH BROWN AND CALDWELL (B&C) FOR FINAL DESIGN SERVICES PRIMARY OUTFALL REHABILITATION – PHASE 2 PROJECT IN AN AMOUNT NOT TO EXCEED $93,056 FOR THE IDENTIFIED SCOPE OF SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT, PLUS $45,393 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $138,449, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto (City) owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control (WQC) Plant (Primary Plant) to the Jennings Road Secondary WQC Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall pipeline was constructed in 1969 across mainly agricultural lands, and

WHEREAS, at the time of construction, an easement was acquired over the entire length of the pipe, without surface rights, with the condition that all pipes and appurtenances to have a minimum of earth cover of three feet, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated over its operational life, and

WHEREAS, to date, approximately 7,000 feet of the Primary Outfall has been rehabilitated in two locations along the alignment, and

WHEREAS, subsequent spot inspections by the City and recent condition assessments have identified a continuing deterioration and occasional sewer overflows to the surface necessitating the need for corrective action, and

WHEREAS, the Primary Outfall Rehabilitation project was included in the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the WWMP identified that the Primary Outfall has insufficient capacity under its current operating condition for projected Peak Dry Weather Flow, and recommends changing the operating condition from a gravity system to a pressure system to increase capacity, and

WHEREAS, this project will not only rehabilitate the Primary Outfall, but will also increase its hydraulic capacity and improve reliability, and

WHEREAS, on June 12, 2007, by Resolution No. 2007-350, the City Council approved an agreement with Brown and Caldwell (B&C) to complete the 35% design effort and a Preliminary Design Report (PDR) for the Primary Outfall Rehabilitation Project, and

WHEREAS, the PDR, which was accepted by City Council on March 11, 2008, by Resolution No. 2008-163, served as the basis of final design for the Primary Outfall, and

WHEREAS, on April 1, 2008, by Resolution No. 2008-188, the City Council approved an agreement with B&C to prepare the final project design of this project, and

WHEREAS, the original PDR and the initial B&C agreement identified the entire facility remediation project as one project, and

WHEREAS, subsequently, due to extensive right-of-way requirements, complexity of construction methods, and length of time needed to complete the necessary improvements outside of the cannery season, staff divided the work in two phases, and

WHEREAS, Phase 1 of the project is currently under construction, and

WHEREAS, this amendment is recommended to cover the following additional work that is beyond the original scope: 1) Extend the overall Project duration; 2) Prepare separate design plans and specifications for Phase 2; 3) Prepare construction cost estimate for Phase 2; 4) Identify reasonable, additional rehabilitation methods and materials to accommodate higher pressure and various alignment constraints; 5) Provide support for Phase 2 contractor prequalification; and 6) Provide support during bidding for the Phase 2 project, and

WHEREAS, the Primary Outfall is a critical component of the City's wastewater treatment and conveyance system, and

WHEREAS, City staff recommends approving an amendment to agreement with B&C for the work for final design of Phase 2, and

WHEREAS, City staff recommends approving an amendment to agreement with B&C as the City does not have the staffing level or subject matter expertise to provide final design services for the Primary Outfall Rehabilitation – Phase 2 project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to agreement with Brown and Caldwell for final design services for Primary Outfall Rehabilitation – Phase 2 project in an amount not to exceed $93,056 for the identified scope of services not included in the original agreement, plus $45,393 for additional services (if needed), for a maximum total amount of $138,449.

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 March 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-086

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (ARWS) FOR ACQUISITION SERVICES FOR PRIMARY OUTFALL REHABILITATION – PHASE 2 PROJECT IN AN AMOUNT NOT TO EXCEED $44,800 FOR THE IDENTIFIED SCOPE OF SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT, PLUS $22,476 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $67,276, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto (City) owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control (WQC) Plant (Primary Plant) to the Jennings Road Secondary WQC Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall pipeline was constructed in 1969 across mainly agricultural lands, and

WHEREAS, at the time of construction, an easement was acquired over the entire length of the pipe, without surface rights, with the condition that all pipes and appurtenances to have a minimum of earth cover of three feet, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated over its operational life, and

WHEREAS, to date, approximately 7,000 feet of the Primary Outfall has been rehabilitated in two locations along the alignment, and

WHEREAS, subsequent spot inspections by the City and recent condition assessments have identified a continuing deterioration and occasional sewer overflows to the surface necessitating the need for corrective action, and

WHEREAS, the Primary Outfall Rehabilitation project was included in the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the WWMP identified that the Primary Outfall has insufficient capacity under its current operating condition for projected Peak Dry Weather Flow, and recommends changing the operating condition from a gravity system to a pressure system to increase capacity, and

WHEREAS, this project will not only rehabilitate the Primary Outfall, but will also increase its hydraulic capacity and improve reliability, and

WHEREAS, this condition; however, requires the construction of surface manholes for various air and vacuum relief valves as well as permanent access for maintenance of these valves, and

WHEREAS, on June 12, 2007, by Resolution No. 2007-350, the City Council approved an agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Primary Outfall Rehabilitation Project, and

WHEREAS, the PDR, which was accepted by City Council on March 11, 2008, by Resolution No. 2008-163, served as the basis of final design for the Primary Outfall, and

WHEREAS, on April 1, 2008, by Resolution No. 2008-188, the City Council approved an agreement with Brown and Caldwell to prepare the final project design of this project, and

WHEREAS, the Brown & Caldwell design identified the location of temporary and permanent access easements, temporary construction easements, and permanent easements for above-ground facilities, and

WHEREAS, on July 1, 2008, by Resolution No. 2008-396, the City Council approved an agreement with ARWS for acquisition services in the amount of $226,000, and

WHEREAS, due to the size of the job and the number of easements required, staff divided the project into two phases, and

WHEREAS, in Phase 1, the City acquired nine (9) easements from five (5) property owners, and

WHEREAS, the agreement identified twenty-nine (29) different parcels for easements, and

WHEREAS, as a result of completing Phase 2 final design, the number of easements and land owners identified for easement acquisition increased significantly, and

WHEREAS, in Phase 2 the City needs to acquire forty-eight (48) separate temporary and permanent easements from nine (9) property owners, and

WHEREAS, the Primary Outfall is a critical component of the City's wastewater treatment and conveyance system, and

WHEREAS, City staff recommends approving an amendment to agreement with ARWS for the work for the significant number of additional easements that were identified during final design, and

WHEREAS, City staff recommends approving an Agreement with ARWS as the City does not have the staffing level or subject matter expertise to provide acquisition services for the Primary Outfall Rehabilitation – Phase 2 project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to agreement with Associated Right of Way Services, Inc. (ARWS) for acquisition services for Primary Outfall Rehabilitation – Phase 2 project in an amount not to exceed $44,800 for the identified scope of services not included in the original agreement, plus $22,476 for additional services (if needed), for a maximum total amount of $67,276.

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 March 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-087

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (EA/UP&P 2009-01) AND A MITIGATION MONITORING AND REPORTING PROGRAM DATED FEBRUARY 2010 FOR THE PROJECT TITLED, "CARPENTER ROAD BRIDGE SEISMIC RETROFIT"

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declaration permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, Dokken Engineering, under contract with the City, prepared an Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program for the Carpenter Road Bridge Seismic Retrofit Project, attached as Exhibit A, which identified potential significant impacts from the proposed Project that could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effect will occur, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on December 10, 2009, and ended on January 8, 2010, and

WHEREAS, public comments were received on the draft Initial Study/Mitigated Negative Declaration, which comments are responded to in the Initial Study/Final Mitigated Negative Declaration dated February 2010, and

WHEREAS, the response to the public comments as contained in the Initial Study/Final Mitigated Negative Declaration dated February 2010 have required technical revisions to be made to the document and these revisions are noted by a bar on the left hand margin throughout the document, and

WHEREAS, the Mitigation and Monitoring Program is included and described within the Initial Study/Mitigated Negative Declaration dated February 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the Carpenter Road Bridge Seismic Retrofit Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.

2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to loss of sensitive wildlife and plant habitat, flooding and water quality, and generation of noise.

3. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy

of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.

7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/UP&P 2009-01) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (EA/UP&P 2009-01), a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Utility Planning and Projects 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 Utility Planning & Projects Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
EA/UP&P 2009-01

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study and Mitigated Negative Declaration UP&P No. 2009-01

For the proposed:

Carpenter Road Bridge Seismic Retrofit Project

Prepared by:
City of Modesto
Utility Planning and Projects Department

February 2010

GENERAL INFORMATION ABOUT THIS DOCUMENT

What's in this document:

This document is a Mitigated Negative Declaration which examines the environmental effects of the proposed project located in the southwest portion of the City of Modesto, Stanislaus County, California. The document describes why the project has been proposed and the existing environment that could be affected by the project.

The Initial Study and Mitigated Negative Declaration were circulated to the public from December 10, 2009 to January 8, 2010. On January 6th, the City of Modesto received a request for a one week extension from the State Lands Commission. That request was granted on January 7th and a subsequent comment letter was received from the State Lands Commission on January 14th, 2010. The comments and their responses are shown in Appendix B: CEQA 30 Day Public Circulation and Response to Comments, which has been added since the draft. Elsewhere throughout this document, a line in the margin indicates a change made since the draft document circulation.

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

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

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

The proposed Carpenter Road Bridge Seismic Retrofit Project is located in an area that was examined by the General Plan MEIR and is currently contained in the General Plan by virtue of the existing nature of these facilities. This Initial Study will determine if there are potentially significant effects from the project, and if so, whether mitigation or alternatives can be provided to avoid or reduce the effects to a level of insignificance.

II. PROJECT DESCRIPTION

A. Title: Carpenter Road Bridge Seismic Retrofit Project

B. Address or Location: City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Applicant: City of Modesto, Utility Planning and Projects Department

D. City Contact Person: Steve Pace

Project Manager: Steve Pace
Department: Utility Planning and Projects Department
Phone Number: (209) 557-5265
E-mail address: space@modestogov.com

E. Current General Plan Designation(s): Open Space, Tuolumne River Comprehensive Planning District

F. Current Zoning Classification(s): R-1, Residential

G. Surrounding Land Uses:

North of the Tuolumne River: Vacant, undeveloped flood plain occurs in the area near the bridge project. The flood plain area east of Carpenter Road is the focus of a recent effort to prepare a new master plan for the Tuolumne River Regional Park.

South of the Tuolumne River: Adjacent to the river and east of the existing bridge is a pet cemetery, and vacant lands. To the west of the existing bridge structure are single family residences located along the bluff top. Hatch Road extends along the southern bluff top more or less parallel with the river corridor. Vacant, rural and agricultural lands are located to the south of Hatch Road.

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):

Background

The proposed project involves seismic retrofitting the Carpenter Road Bridge in the City of Modesto. Retrofitting of this bridge is a result of California Senate Bill 36 that was enacted in response to the 1989 Loma Prieta Earthquake. This Bill authorized a statewide seismic retrofit program as a top priority safety concern. Caltrans, through a screening process, found that the Carpenter Road Bridge was a candidate for the Local Seismic Retrofit Program. In 1996, the State hired Dokken Engineering to provide seismic analysis, strategy determination and any needed structural retrofit design for this bridge. Dokken Engineering performed this work and based on AGRA Earth and Environmental field borings, it was found that the liquefaction potential at the bridge site would require extensive foundation retrofit work. From these findings, the retrofit improvements were designed to reduce the potential risk and seismic hazards. Funds for the Carpenter Road Bridge Retrofit were approved and will come from a combination of State and Federal funds.

The existing bridge was built in 1960 and is constructed of concrete materials. It currently accommodates two lanes of traffic (one in each direction). The western side of the bridge has a narrow sidewalk with inadequate railing. Pedestrian access along this sidewalk is unsafe due to the low railing and proximity to vehicular traffic. There is no handicap pedestrian access along the bridge. The majority of the bridge improvements occur within the City of Modesto's jurisdictional limits. From the mid-point of the Tuolumne River to the south, the jurisdiction changes to Stanislaus County. The City of Modesto is the lead agency for processing California Environmental Quality Act (CEQA) environmental review documents and for approving the project. Stanislaus County is a Responsible Agency for CEQA purposes. The bridge will have independent utility and is not associated with any future planning programs that require increased bridge capacity or service. The proposed action constitutes a "project" in accordance with CEQA. Prior to approving new discretionary actions, the City must provide environmental review in accordance with CEQA to assess the potential effects of the project, including mitigation where necessary.

All studies and other supporting information discussed in this document are listed in the Reference section and are available for review at the City of Modesto Utility Planning and Projects Department, 1010 Tenth Street, Modesto CA.

Project Characteristics

The retrofitted bridge structure will provide similar vehicular capacity and travel as the existing bridge. Two travel lanes (one in each direction) will be retained.

Proposed Improvements and Operations

Carpenter Road crosses the Tuolumne River approximately 2.5 miles downstream from SR-99, in the southwest portion of the City of Modesto. The existing bridge will be retrofitted by adding longitudinal link beams to either side of the deck, increasing the width of the current bridge from 33.5 feet to 69.75 feet. Cast-In-Drilled-Hole (CIDH) piles (84 inches diameter) will be installed to support the link beams. An additional 12 pilings will be required to support the link beams over the river channel. Where the CIDH piles will be placed in the live stream of the Tuolumne River (i.e., bents 2, 3, and 4), sheet pile cofferdams will be constructed to allow for dewatering the work area and installation of the piles. Earthen fill will be placed at both abutments to provide seismic resistance. At the southern abutment, the embankment down to the river will be protected with articulated concrete revetment. (See Figure 1, Project Area Map)

Temporary trestles will be constructed adjacent to the existing bridge, on either side of the existing bridge to serve as work platforms. The trestles will be constructed of steel and timber and will be supported by steel piles driven into the river bottom. The trestles will span the section of the bridge over the Tuolumne River and will touch down on each bank. The trestles will remain in place until construction is completed.

Utilities located in the project area may require relocation. All relocation of both permanent and temporary structures will take place within the proposed project footprint.

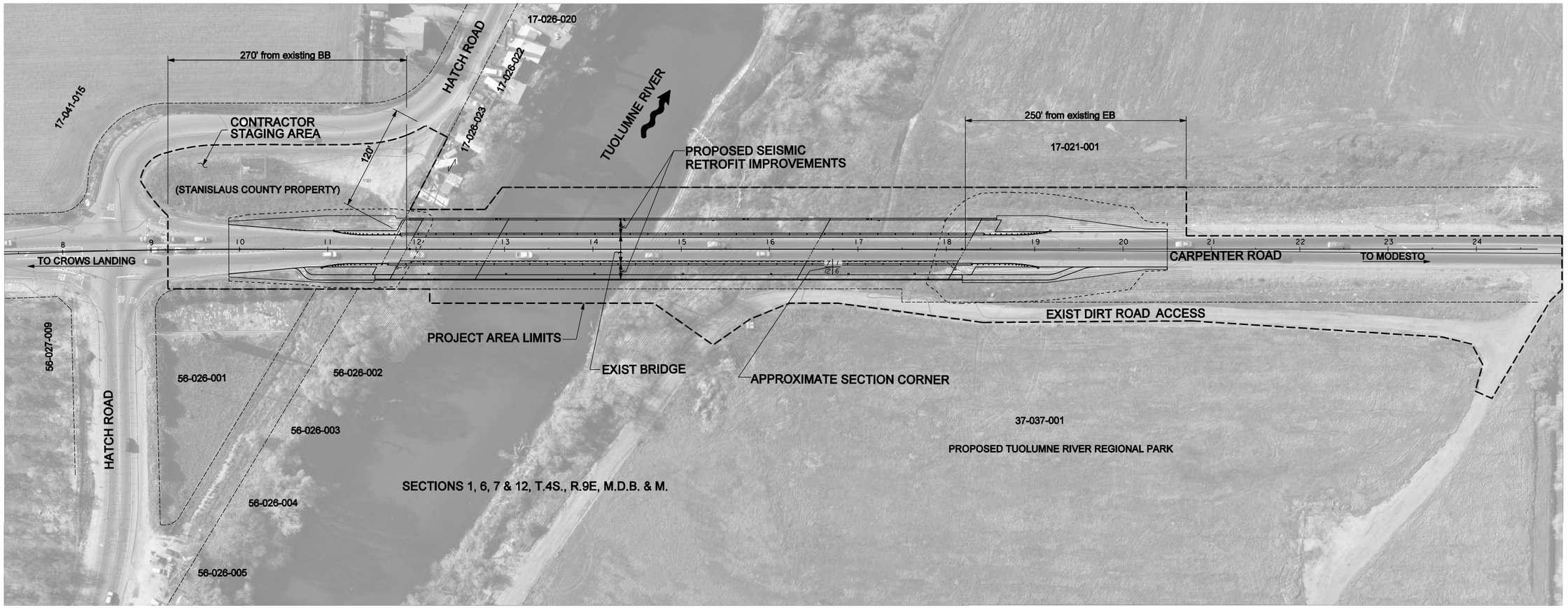
Access, Staging, and Dewatering

During the first stages of construction, temporary barriers (Type K) will be placed within the existing barriers, and two-way traffic access will be maintained with 11-foot travel lanes. By placing temporary barriers onto the roadway, removal of the existing barriers and access to the 16" water main (to be abandoned in place and to remain active until construction is complete) can occur as well as access to constructing the additional (new) bridge decking. Once these improvements are complete, barriers will be relocated to restore two 12-foot traffic lanes with four-foot shoulders.

Access to the work areas will be accomplished via the existing access road on the north bank. No access to the trestles from the south bank will be provided due to physical constraints.

Some temporary single lane closures during non-peak daylight hours may be required for certain construction operations. Both lanes would be open during peak traffic hours and when work is not actively in progress that requires the lane closure. In order to minimize interrupted vehicular service during construction, construction activities will be staged. Construction is expected to take 12 months.

Figure 2 shows the regional and vicinity location of the project.



Legend

– – –	AREA OF POTENTIAL EFFECTS Boundary	T.C.E. TEMPORARY CONSTRUCTION EASEMENT
-·-·-	Exist R/W (ADDITIONAL R/W NOT REQUIRED)	BB BEGINNING OF BRIDGE
------	Proposed Fill Limits	EB END OF BRIDGE

N

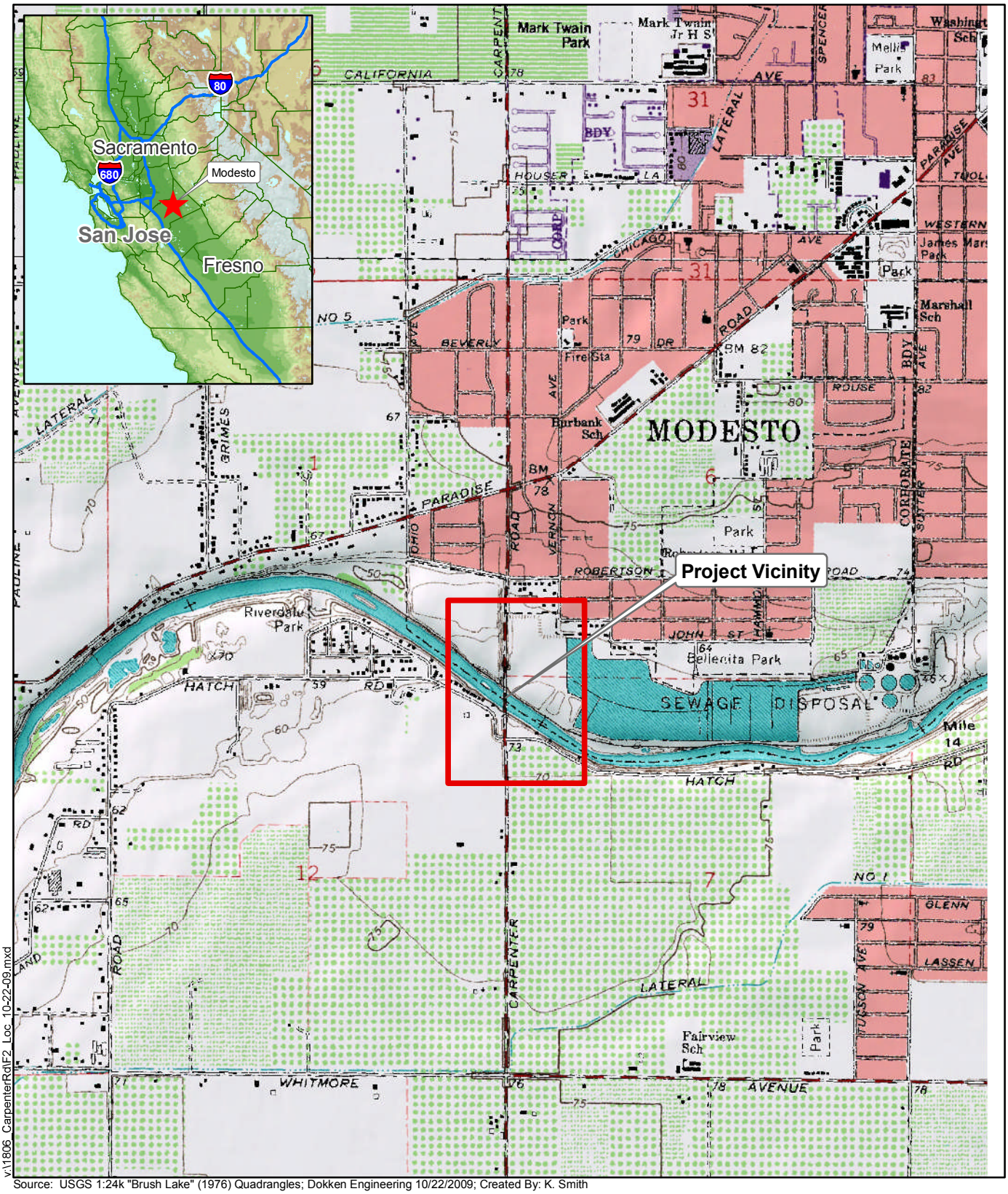
FEET

0 80 160 240 320 400

Carpenter Road Bridge Seismic Retrofit Project
November 2009

Project Area Map

10-STA-Carpenter Road
Modesto, Stanislaus County
Project # BRLSZA-5059(064)



v:\1806_CarpenterRdIF2_Loc_10-22-09.mxd

Source: USGS 1:24k "Brush Lake" (1976) Quadrangles; Dokken Engineering 10/22/2009; Created By: K. Smith

FIGURE 2
PROJECT LOCATION

10-STA-Carpenter Road - Modesto
BRLSZA-5059(064)
Bridge No. 38C-0050
Carpenter Road Bridge Seismic Retrofit Project
Modesto, Stanislaus County, California

I. Other Public Agencies Whose Approval is Required:

Permits and approvals required for the project are listed in Table 1.

Table 1: Project Permits and Approvals

Agency	Permit/Approvals
City of Modesto	Bridge general plan, final design, right-of-way acquisition, bid and award, project construction
Stanislaus County	Encroachment permit
California Department of Fish and Game	Section 1602 Streambed Alteration Agreement
California Regional Water Quality Control Board	Section 401 Water Quality certification or waiver; NPDES Permit compliance
Federal Highway Administration	NEPA/Authorization of Federal Funds
Corps of Engineers	Section 404 Permit of the Clean Water Act
State Water Resources Control Board	Section 402 Permit of the Clean Water Act (NPDES)
California Department of Water Resources	Reclamation Board Encroachment Permit

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

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

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

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

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

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Steve Pace	Associate Civil Engineer	2/19/2010
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

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

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

Discussion:

(2) The project has the potential for additional environmental impacts that were not addressed by the MEIR. Additional avoidance, minimization, and mitigation measures have been included that are not part of the MEIR. By including these measures, the potential impacts have been reduced to a less than significant level for this project.

5. Currency of the Master EIR Document

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

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

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes TC-6, TC-9, TC-12, TC-13, TC-20, TC-27, TC-34, and TC-39 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	[ ]	[ ]	[X]	[ ]
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ ]	[X]	[ ]
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan,	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.				
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	[ ]	[ ]	[X]	[ ]
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	[ ]	[ ]	[ ]	[X]
7) The proposed project would result in an increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) No new capacity would be added and levels of service would remain unchanged from existing bridge levels of service. During construction, staged bridged construction would maintain traffic flow. Traffic flow would not be significantly affected during construction periods.

(2) The proposed project will not generate an increase in traffic in the area. During construction, temporary lane adjustments (i.e., cone placement) may be implemented. A primary objective of this project is to retain complete through access on Carpenter Road Bridge throughout the construction process.

Bridge replacement is consistent with the Traffic and Circulation Needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages (V-1-1 through V-1-37) are still valid.

(3) The proposed project would not significantly change traffic patterns and would not cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan. Since there is no additional capacity being added the proposed project would not increase automobile vehicle miles or vehicle hours traveled.

(4) Two-way emergency services access over the Tuolumne River from the City of Modesto to Stanislaus County would be retained throughout the project area. There should be no loss in emergency service response capabilities either during bridge construction or in the long term.

(5) There are currently no parking opportunities on Carpenter Road or adjacent roadways and uses that will be affected by construction. No new parking demand would be generated by the project.

(6) The proposed project does not propose changes to the City of Modesto Circulation Plan, which is consistent with the Regional Transportation Plan (RTP). The project does not include additional facilities such as bicycle lanes; however, the retrofit project would not preclude those improvements in the future on this facility. For this reason, the project would not prevent service improvements in the future such as non-motorized facilities, and the project is consistent with the goals and policies of the City of Modesto General Plan. The proposed project would not conflict with adopted policies, plans, or programs supporting alternative transportation.

(7) The proposed project would not result in additional energy consumption. Electrical conduit is planned as part of the improvement project; however, no lighting is proposed. Should lighting on the bridge be proposed in the future, the effects of increased energy consumption, as they relate to transportation projects in the Urban Area General Plan, would be considered at that time.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

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

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be

incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-42 through AQ-44 and AQ-46 through AQ-50 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

During construction, short-term degradation of air quality may occur due to the release of particulate emissions (airborne dust) generated by excavation, grading, hauling, and other activities related to construction. Emissions from construction equipment also are anticipated and would include carbon monoxide (CO), nitrogen oxides (NOx), volatile organic compounds (VOCs), directly-emitted

particulate matter (PM10 and PM 2.5), and toxic air contaminants such as diesel exhaust particulate matter. Ozone is a regional pollutant that is derived from NOx and VOCs in the presence of sunlight and heat.

Heavy trucks and construction equipment powered by gasoline and diesel engines would generate CO, SO2, NOx, VOCs and some soot particulate (PM10 and PM2.5) in exhaust emissions. If construction activities were to increase traffic congestion in the area, CO and other emissions from traffic would increase slightly while those vehicles are delayed. These emissions would be temporary and limited to the immediate area surrounding the construction site.

Dust generated will result in a temporary, local impact, limited to areas of construction. Dust control practices will be incorporated into the project to mitigate this potential impact. The dust control practices will comply with the current Caltrans' Standard Specifications.

Each of the above impacts are construction related, temporary, and with inclusion of Best Management Practices and applicable City of Modesto General Plan MEIR measures, these impacts would be reduced to a less than significant level.

(1-2) The proposed project is located within the City of Modesto, which is located within the San Joaquin Valley Air Basin and under the jurisdiction of the San Joaquin Valley Air Pollution Control District. As shown in Table 2, the San Joaquin Valley Air Basin is designated as a non-attainment area for ozone and PM10. The proposed retrofit would not add additional travel lanes or result in traffic volume increases. The proposed improvements would not further aggravate local, State, or federal non-attainment status.

Table 2: San Joaquin Valley Air Basin Attainment Status

Standard	CO	PM_{10}	$PM_{2.5}$	O_3 1-hour	O_3 8-hour
Federal	Maintenance	Attainment (Maintenance)	Non-Attainment	No Federal Standard	Non-Attainment
State	Attainment	Non-Attainment	Non-Attainment	Non-Attainment	Non-Attainment

Source: California Air Resources Board, 2009.

(3) Despite the less than significant finding, it is recommended that the following dust control measures (to control PM10 emissions) be applied during construction consistent with Regulation VIII administered by the San Joaquin Valley Air Pollution Control District (SJVAPCD)

Regulation VIII Control Measures - The following controls are required to be implemented at all construction sites. (Includes changes effective May 15, 2002):

- 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.
- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- 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.
- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

- 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.
- 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 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.)
- 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.
- Within urban areas, trackouts shall be immediately removed when they extend 50 or more feet from the site, and at the end of each workday.
- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

Enhanced Control Measures. - The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

- Limit traffic speeds on unpaved roads to 15 mph; and
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.

Additional Control Measures. - The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for other reason warrant additional emissions reductions:

- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;
- Install wind breaks at windward side(s) of construction areas;
- Suspend excavation and grading activity when winds exceed 20 mph; and*
- Limit area subject to excavation, grading, and other construction activity at any one time.

*Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.

(4) The proposed project would not generate additional traffic or increase capacity and there would be no increase in exposure of sensitive receptors to pollutant concentrations.

(5) The proposed project would not result in the creation of objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes N-1 through N-4, N-6, N-8 through N-10, N-13, and N-14 from the Master EIR. In addition to these measures taken from the Master EIR, measure NOI-1 has been incorporated to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	[ ]	[ ]	[X]	[ ]
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
3) The proposed project will result in an increase in	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ambient noise levels in the project vicinity above those disclosed in the Master EIR.				
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	[ ]	[X]	[ ]	[ ]

Discussion:

(1-3) No significant impacts would be generated as a result of the bridge retrofit project, nor will the neighborhood be impacted as a result of this use. It would not create additional significant effects and the Mitigation measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-33) are, therefore still valid.

Following bridge replacement, vehicular traffic would remain in the current alignments. No new travel lanes would be added, and traffic volumes are not expected to change. Traffic speed would not increase over the current posted limits. Therefore, proposed roadway improvements would not cause an increase in traffic related noise conditions.

(4) The greatest source of noise from retrofitting the bridge involves construction and demolition. Of these activities, bridge construction would create temporary construction noise, including noise from pile driving. However, construction activities would occur only during the hours allowed under the City's Noise Ordinance and as allowed under the contractor specifications. The City's Ordinance declares noise events as public nuisances, as noted in (but not limited to) Chapter 9 (Noise Regulations), Article 1, Provision 4-9.103 (b): *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.*. Likewise, the contractor's specifications dictate sound control requirements and are more restrictive than the City's ordinance. The contractor's sound control specification is provided as a mitigation measure.

Mitigation Measure NOI-1: During construction, the noise level from the Contractor's operations, between the hours of 9:00 p.m. and 7:00 a.m., shall not exceed 86 dBA at a distance of 35 feet. In addition, pile driving and jackhammer activities shall be prevented between 9:00 p.m. and 7:00 a.m. to minimize the noise disturbances on nearby residential receptors during the nighttime hours. This requirement shall not relieve the Contractor from responsibility for complying with local ordinances regulating noise level.

The noise level requirement shall apply to the equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the Contractor. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	[ ]	[ ]	[ ]	[X]
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	[ ]	[ ]	[ ]	[X]
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	[ ]	[ ]	[ ]	[X]
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan's policies relating to agricultural land and would not impact any agricultural lands in the area.

(2) The City of Modesto General Plan EIR indicates that the Tuolumne River Regional Park flood plain area is designated "Other Land." These are farmlands that do not meet the defined farm land categories. The Stanislaus County General Plan Support Documentation (1987) notes that the project area south of the river is designated as Prime or Potential Prime Agricultural Lands. Nonetheless, the proposed improvements will not encroach into nor have any impacts on lands used for agricultural production.

(3) Project implementation will not conflict with existing zoning and the property is not under a Williamson Act contract.

(4) The proposed project would not result in the conversion of Farmland to non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
from existing entitlements and resources.				
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	[ ]	[ ]	[ ]	[X]

Discussion:

(1-3) The proposed project, as a bridge seismic retrofit, would not increase demand for water supplies. It is consistent with water supply policies in the Urban Area General Plan. The project would not impact groundwater supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Increased Demand for Sanitary Sewer Services				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	[ ]	[ ]	[ ]	[X]

Discussion:

(1-3) The proposed project, as a bridge seismic retrofit, would not increase demand for sanitary sewer services. It is consistent with water supply policies in the Urban Area General Plan. The project would not impact groundwater supplies.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

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

Discussion:

The appropriate mitigation to be applied to this project includes SWPH-1 through SWPH-14 from the Master EIR. In addition to these measures taken from the Master EIR, measures BIO-1 through BIO-9 have been incorporated to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	[ ]	[ ]	[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 a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	[ ]	[X]	[ ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	[ ]	[X]	[ ]	[ ]
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	[ ]	[X]	[ ]	[ ]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[X]	[ ]
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	[ ]	[ ]	[X]	[ ]

Discussion:

A Natural Environmental Study Report (NESR) was prepared in 2002 and updated in 2009. The NESR evaluated impacts to biological resources, special status species, and wetlands. The following section summarizes the NESR findings.

(1) The project will not affect any special status plant species. The project may affect valley elderberry longhorn beetle (VELB) since elderberry plants are located within 20 ft of the work limits. Consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act was conducted. In addition, the work within the live channel of the Tuolumne River may affect Central Valley steelhead and Central Valley fall- and late fall-run Chinook salmon. The project will also result in impacts to designated critical habitat for the Central Valley steelhead and Essential Fish Habitat for the Central Valley fall- and late fall-run Chinook salmon. Consultation with the National Marine Fisheries Service under Section 7 of the Endangered Species Act and the Magnusen-Stevens Fishery Conservation Act has been completed, per concurrence letter dated November 27, 2002.

Mitigation Measure BIO-1: For lands that contain or potentially contain valley foothill riparian, riverine, wetland, grassland, and pasture habitats, site specific surveys shall be conducted by a qualified biologist to determine whether a sensitive natural communities or species are present within the proposed development area.

Surveys shall be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes. These surveys have been completed in conjunction with preparation of the NESR.

Mitigation Measure BIO-2: All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to long-term conservation of the species and ecosystems on which they depend. The NESR recommends protection of these resources to the extent practicable.

Mitigation Measure BIO-3: Where formally listed species are determined present, consultation shall be carried out with the CDFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where a candidate or other special status category of species is involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

Mitigation Measure BIO-4: During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.

Mitigation Measure BIO-5: Measures to assure the project will have no affect on VELB:

- Prior to initiation of construction, the limits of all construction and staging areas will be staked. The staked areas will be surveyed by a qualified biologist. Based on these surveys, additional refinements to construction areas will be performed as necessary to ensure a minimum 20-foot setback from the dripline of all elderberry plants.
- Once the final limits of construction are set, brightly colored fencing (i.e., snow fencing) will be installed around the perimeter (at the drip line) of all elderberry plants within 100 feet of construction areas. A qualified biologist will be present during the installation of fencing.
- Contractors will be briefed on the need to avoid damage to elderberry plants and the possible penalties for not complying with these requirements.
- During the construction period, all elderberry plants within 100 feet of construction limits will be rinsed with clean water once each week unless rainfall makes this unnecessary.
- Signs will be posted every 50 feet along elderberry avoidance areas with the following information: "This is habitat for 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 shall be clearly readable from a distance of 20 feet and maintained for the duration of the project.
- During the construction period, a qualified biologist will inspect the construction areas on a regular basis to assure that the project is not affecting any elderberry plants.

(2) The proposed seismic retrofit project will result in the loss of 0.08 acre of riparian vegetation on the south bank of the Tuolumne River during abutment widening and installation of the articulated concrete revetment. The project will also remove 20 trees greater than 6 inches diameter at breast height (dbh), which is measured at 54 inches above the ground surface, and a mature box elder stand measuring approximately 75 feet by 50 feet.

Mitigation Measure BIO-6: Prior to initiating construction, snow fence shall be installed along the ESA boundaries to prevent encroachment into the riparian areas adjacent to the construction site.

Mitigation Measure BIO-7: Following completion of construction, all graded or disturbed areas within the riparian corridor on the north bank of the Tuolumne River (approximately 0.19 acre) shall be revegetated with riparian species in accordance with the Riparian Revegetation Guidelines contained

in Appendix D of the NESR. Using an average tree spacing of 15 feet on center, approximately 36 trees will be planted throughout the 0.19 acre area that will be revegetated. These 36 trees are expected to adequately offset the removal of 20 trees during project implementation.

(3) The project will discharge fill into approximately 0.05 acre of waters of the U.S. under the jurisdiction of the Army Corps of Engineers during installation of the CIDH piles and articulated concrete revetment (on the south bank). No wetlands occur in the project area, consequently, no wetlands will be affected by the project.

The project will result in the loss of 0.08 acre of riparian vegetation under the jurisdiction of CDFG.

See Mitigation Measures BIO-6 and BIO-7.

(4) See discussion item 1.

Mitigation Measure BIO-8: At least two weeks prior to the start of construction, a qualified biologist shall survey the riparian habitat within, and adjacent to (if possible), the project area for presence of nesting birds. If any nesting activity is observed, the City shall coordinate with CDFG to determine the best course of action.

Mitigation Measure BIO-9: All work in the live stream of the Tuolumne River will be conducted between June 15 and September 15.

(5) The project will result in the removal of an estimated 20 trees. These trees are commonly found throughout the area. Removal of these trees would not conflict with any existing preservation policies or ordinances.

(6) The project would not conflict with any approved local, regional, or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes: AH-1 through AH-17 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	[ ]	[ ]	[ ]	[X]
3) The proposed project would modify or demolish a structure more than 50 years in age.	[ ]	[ ]	[X]	[ ]
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	[ ]	[ ]	[X]	[ ]

Discussion:

A Historic Property Survey Report (HPSR) and Archaeological Survey Report (ASR) were prepared by LSA Associates, in April 26, 2002. The findings below are summarized from the HPSR and ASR.

(1) The proposed project is consistent with the archaeological and historical resource policies in the Urban Area General Plan.

(2) The proposed project would not demolish any buildings eligible for listing as a historic resource, nor would it remove a landmark from the Modesto inventory.

(3) The original bridge structure was built in 1960 and, therefore, does not exceed the 50-year threshold for considering historic significance. Historic and pre-historic surveys and analyses are proposed to determine the potential adverse effect on the resources and the potential eligibility listing on the National Register of Historic Places. Caltrans also has determined that the Carpenter Road Bridge is ineligible for the National Register of Historic Places, and additional bridge evaluations for historic review are not required (Category 5 bridge). Likewise, the bridge is not an historic landmark under the City of Modesto Landmark Preservation guidelines, Modesto Code Chapter 10, Article 9-10.01 through 9-10.09.

(4) The proposed bridge replacement project would not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. However, the MEIR indicates that the proposed bridge is located within the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. Historic and pre-historic surveys have been conducted and produced negative findings in the project area. A pet cemetery is located adjacent to the project site to the southeast; however, this area will not be impacted by the project and will be protected using Environmentally Sensitive Area (ESA) fencing.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

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

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

Discussion:

The appropriate mitigation to be applied to this project includes: SD-1 and SD-5 through SD-17 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project is consistent with the storm drainage policies in the Urban Area General Plan.

(2) The proposed bridge project would not present any new impacts that have not already been addressed in the MEIR. The Mitigation Measures would reduce the impacts of increased runoff within the baseline developed area to a less than significant level. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages (V-10-1 through V-10-8) are, therefore, still valid.

(3) The proposed project is a seismic retrofit of the Carpenter Road Bridge. The project includes widening the existing bridge which would increase storm water runoff in the project area. Low Impact Development strategies normally used in urban development do not apply to a project like this, and the increase in storm water runoff would be considered a less than significant impact considering the low amount of impervious surfaces in and around the project area.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes: FWQ-2 through FWQ-6 and FWQ-11 through FWQ-15 from the Master EIR. In addition to these measures taken from the Master EIR, measures HYDRO-1 through HYDRO-3 have been incorporated to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	[ ]	[ ]	[X]	[ ]
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	[ ]	[X]	[ ]	[ ]
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	[ ]	[ ]	[ ]	[X]
6) The proposed project would violate water quality standards or waste discharge requirements.	[ ]	[X]	[ ]	[ ]
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The proposed project is consistent with the flooding and water quality policies in the Urban Area General Plan.

(2) The Tuolumne River is protected under the Clean Water Act (CWA) and the Porter Cologne Water Quality Control Act. This resource is regulated by the Army Corps of Engineers under Section 404 of the CWA, Central Valley Regional Water Quality Control Board under Section 401 of the CWA, the Environmental Protection Agency under Section 402 of the CWA and the

California Department of Fish and Game under 1602 of the California Fish and Game Code. The project will be required to obtain permits from each of these regulatory agencies prior to any construction activities that have the potential to impact the River and associated riparian habitats within the proposed project area. It is necessary that the proposed project comply with all measures identified in these permits.

(3) No housing units are proposed as part of the bridge replacement project.

(4) The project area is subject to 100-year flooding conditions. A hydrologic and hydraulic analysis was prepared by West Consultants, Inc., in March 2001 to ensure that the retrofit bridge structures will not adversely impact the flood plain, and that the bridge structures will be adequately designed to withstand the forces associated with flooding pressure. The project is located within an area subject to 100-year flooding conditions.

Mitigation Measure HYDRO-1: The City of Modesto is advised that it is required to submit a letter of map revision request (LOMR) to FEMA because the proposed project involves construction in the regulatory floodway. In addition, FEMA regulations require that there be no increase in the water surface elevations for projects involving construction in the regulatory floodway. If there is an increase in the base flood elevations because of a project, the City would need to submit additional evidence to FEMA in accordance with the National Flood Insurance Program regulations outlined in 44 CFR, Section 65.12. Therefore, mitigation has been proposed by the project engineer to achieve no impact to the flood levels.

- Install a closed-cell type articulated concrete block (ACB) revetment to protect the Abutment 1, instead of a rock riprap revetment which was proposed in the design plans. A closed-cell Armorflex block system was chosen. This type of protection results in a smoother surface and decreases the roughness through the bridge. The modeled results indicate that the ACB revetment option mitigates the increased water surface elevations for both the 50-year and 100-year flood simulations.

(5) The City of Modesto's Guidance Manual for New Development is designed for urban and rural development and would not apply for a bridge seismic retrofit project.

(6) Bridge retrofitting could cause disturbances to the ground surface from earthwork potentially increasing the amount of sediments entering into the Tuolumne River. Runoff during the winter rainy season is of greater concern due to the potential erosion of unprotected/graded surfaces. Sediments suspended in runoff would be carried downstream, where if not controlled, could accumulate in downstream wetlands areas and water courses, potentially harming the aquatic ecosystem and spawning areas. However, in light of the short project construction period within the river (approximately 3-4 months), and minimal surface disturbance, it is unlikely that a significant quantity of sediments would be eroded and flushed into the drainage system.

Sediments can be adequately controlled, even during the rainy season, thus eliminating issues regarding erosion and sedimentation damage. Therefore, the bridge retrofit project is not expected to increase the quantity of suspended fine materials that could alter water quality with the implementation of proposed BMPs for controlling storm runoff.

These potential water quality effects are considered avoidable, and can be reduced through implementation of BMPs and compliance with existing regulatory requirements. Based on this analysis and implementation of BMPs, the project will not significantly impact the beneficial uses of surface waters or groundwater within the vicinity of the project.

Mitigation Measure HYDRO-2: Implementation of the following BMPs will reduce the potential for impacts upon water quality.

- Provide berms along the tops of slopes to prevent water from running uncontrolled down the slopes.
- Collect the water in these berms and take it down the slopes in an erosion-proof drainage system.
- Provide energy dissipaters and erosion control pads at the bottom of down drains.
- Install permanent landscaping, as soon as practical, after the completion of grading.

Mitigation Measure HYDRO-3: The following measures shall be included in the project drainage plans:

- The drainage plan shall include water quality control measures to ensure minimized contaminants in waters discharged to surface streams or percolated into the ground.
- The water quality control measures shall address both construction and operation periods.
- Fluvial erosion related to construction is controlled by a construction erosion control program which shall be filed with the City Utility Planning and Projects Department and kept current throughout any site development phase.
- The erosion control program shall include best management practices as appropriate, given the specific circumstances of the site and/or project.

(7) Construction of the proposed project is not expected to significantly alter the existing drainage patterns of the site.

(8) The proposed bridge project would not present any new impacts that have not already been addressed in the MEIR. The Mitigation Measures would reduce the impacts of increased runoff within the baseline developed area to a less than significant level. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages (V-10-1 through V-10-8) are, therefore, still valid.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project is consistent with the parks and open space policies in the Urban Area General Plan.

(2) The proposed bridge retrofit project extends through a future regional park project. To the extent that the park is undeveloped, and a Master Plan effort has been initiated to establish park uses, design, development standards, etc., short- and long-term operations involving bridge retrofit improvements are not predicted to be significant impacts. Short term temporary use of some park land may be required for use as a staging area; however since the park is not developed and any disturbed land would be returned to its original preconstruction condition, the impact would not be significant.

(3) Bridge features extend through the site proposed for the Tuolumne River Regional Park. However, the proposed retrofit project will not impact the future park and would not result in an increase in use of existing neighborhood or regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project would not result in an increase in students or enrollment to Modesto City Schools. The MEIR has determined that the mitigation measures for this impact adequately mitigate the impacts to a less than significant level." Thus 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, therefore, still valid.

(2) The proposed project, a bridge seismic retrofit, would have no impacts on compliance with SB50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less than significant impacts on schools.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project would have a less than significant impact upon the need for additional police services to the project area. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Police Services (pages V-13-1 through V-13-8) are, therefore, still valid.

(2) The proposed project, a bridge seismic retrofit, would not impact the need for new or significantly altered facilities not considered as a part of the Urban Area General Plan or MEIR which could cause new impacts in order to maintain acceptable police services.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

(1) The proposed project would have a less than significant impact upon the need for additional fire services to the project area. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

(2) The proposed project, a bridge seismic retrofit, would not impact the need for new or significantly altered facilities not considered as a part of the Urban Area General Plan or MEIR which could cause new impacts in order to maintain acceptable fire protection services.

(3) The proposed project, a bridge seismic retrofit, would not cause the erosion or elimination of fire protection services in adjoining fire protection districts.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes SW-1 and SW-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The project is consistent with the solid waste policies in the Urban Area General Plan.

(2) The proposed project would not result in the generation of solid waste that cannot be accommodated at existing local facilities. All solid waste generated as a result of the proposed project would be from construction and demolition and would be a temporary need. Where possible, all of the concrete from the demolition of the current bridge should be recycled at Modesto Sand and Gravel, rather than being disposed of at the landfill.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes HM-3, HM-5, HM-12, HM-13, HM-14, HM-17, HM-18, and HM-19 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	[ ]	[ ]	[X]	[ ]
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	[ ]	[ ]	[X]	[ ]
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) In the construction process, there is the potential for removal of some hazardous materials. Potentially hazardous materials include lead based paint found in the lane striping, and asbestos found in some of the construction materials of the existing bridge (bridge pads, etc). Removal of these materials will be done using standard Best Management Practices and all potentially hazardous materials removed in this way will be properly disposed of by the contractor.

Retrofitting the bridge would involve the use of heavy equipment, the construction of a reinforced concrete span and roadway. Hazardous materials such as fuel, asphalt, and solvents would be used during construction. These materials would be used in accordance with all applicable laws and regulations and, if used properly, would not pose a hazard to people, animals, or plants. The use of hazardous materials would be temporary and the proposed project would not include a permanent use or source of hazardous materials.

(2) All hazardous materials used during project construction would be handled in accordance with applicable laws and regulations and this impact would be less than significant.

(3) Preliminary indication reveals that there is no evidence of any issues or concerns with regard to the use or storage of hazardous waste materials, etc. Past agricultural production on the adjacent flood plain area would have employed the use of herbicides, pesticides and fertilizers, and residual amounts of those contaminants may still be detected in surface soils. In general, there is no evidence of hazardous wastes contamination detected in the area. The potential for hazardous waste discharge is very low due to the largely undeveloped lands that characterize the project area.

(4) The only hazardous waste site in the vicinity of the project is the City of Modesto Landfill located on the north side of the project to the east and west of the project area. The landfill will be avoided and ESA fencing will be used to ensure construction vehicles do not impact landfill area.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes GSM-3, GSM-4, GSM-6, GSM-10, and GSM-11 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	[ ]	[ ]	[X]	[ ]

Discussion:

(1-2) Although the bridge is not located within an area delineated on the Alquist-Priolo Earthquake Fault Zoning Map or within the area of a known fault, California is an area of seismic activity and the proposed bridge could be subject to seismic hazards or ground failure in the event of a seismic event. Seismic design studies were previously completed for the retrofit project.

In conjunction with the engineering design, any construction which occurs as a result of the project must conform with the current Caltrans standards, which address seismic safety of new structures and slope.

The proposed bridge retrofit project would not expose people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The bridge will meet current seismic design standards, retrofitting the existing bridge that does not meet those standards. As a result of the improved bridge, safety considerations will be enhanced for persons using the bridge, significantly reducing the risk of bridge failure during a seismic event. 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-17-11) are, therefore, still valid.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes E-6, E-10, E-15, and E-16 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The proposed project is consistent with the policies relating to energy in the Urban Area General Plan.

(2) Construction activities for this project would be temporary and would be considered a less than significant impact to energy consumption in the area. In addition, energy conservation and reduction Best Management Practices will be used according to the California Department of Transportation Standards.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes VR-1, VR-6, VR-8, and VR-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The proposed project is consistent with policies relating to visual resources in the Urban Area General Plan.

(2-3) The prominent scenic areas and resources involve the Tuolumne River resource. Natural aesthetic characteristics associated with riparian vegetation and river flow within the river corridor establish high scenic value for the project area.

On the adjacent flood plain, vacant and undeveloped lands have little aesthetic value at the present time. Upon implementation of the Tuolumne River Regional Park plan, the combination of natural aesthetic value from river resources, combined with developed park features, will significantly enhance the aesthetic value of the area. The project is adjacent to these resources and will not have an effect on any planned features.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	[ ]	[ ]	[X]	[ ]
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The proposed project is consistent with land use and planning policies in the Urban Area General Plan.

(2) The project would retrofit the existing Carpenter Road bridge and would not physically divide an established community.

(3) The project is consistent with the long-range plans envisioned by the City of Modesto and Stanislaus County for this region. Carpenter Road is currently a minor arterial with two travel lanes; however, the Modesto General Plan designates this road as a six-lane principal arterial based on the 2030 build out. Bridge retrofitting would not change bridge's status as a minor arterial.

The Tuolumne River at this location is State-owned land under the jurisdiction of the California State Lands Commission. A 49 year lease was issued to the County of Stanislaus for the Carpenter Road Bridge beginning on June 18, 1958. The lease expired on June 17, 2007. The County of Stanislaus has submitted an application to obtain a new lease for the bridge; however, additional information is required before a lease can be issued. In order to remain consistent with the requirements of the lease renewal between the State Lands Commission and the County of Stanislaus, the City of Modesto will provide project description and other information to include in the amended lease application.

(4) The bridge would be located in the vicinity of the proposed Tuolumne River Regional Park and within the area covered by the park plan. The bridge would comply with the policies of the Tuolumne River Regional Park Plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes CL-2, CL-3, CL-5, and CL-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[X]	[ ]
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The proposed project is consistent with policies relating to climate change in the Urban Area General Plan.

(2) In addition to adherence to local, regional, and state standards for pollutants shows in Table 2 above, all projects under CEQA are required to identify any potential impacts the project may have on Climate Change and emission of Green House Gasses (GHG). Senate Bill No. 97, Chapter 185, amended CEQA guidelines to be able to address GHG and Climate Change. The California Global Warming Solutions Act of 2006 (AB 32) designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gasses that cause global warming in order to reduce emission of greenhouse gasses. Common GHG include vapor, carbon dioxide, methane, nitrous oxides, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, ozone, and aerosols.

As discussed in Section 2 – Air Quality, the project will not have any significant permanent or temporary impacts to air quality with inclusion of Best Management Practices and applicable MEIR measures. For the same reasons, the project will not have any significant impacts on Climate Change. Construction related GHG emissions would be short term and would be reduced both by the MEIR measures listed in Section 2 and in this section. Since the purpose of the project is to improve safety of the existing bridge over the Tuolumne River, and because the proposed retrofit would not add additional travel lanes or result in traffic volume increases, no additional significant GHG emissions are expected as a result of the project.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate measures and policies have been applied to the project (see table below). Measures and policies that require further action have also been included in the Mitigation and Monitoring Report Plan in Appendix A.

	Measures and Policies - No Further Action	**Measures and Policies - Action Needed**
Traffic and Circulation	TC-6, TC-9, TC-12, TC-13, TC-20, TC-27, TC-34, TC-39	None
Air Quality	None	AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50
Noise	N-1, N-2, N-4, N-6, N-8, N-9, N-13, N-14	N-3, N-10
Sensitive Habitat and Wildlife	SWPH-1, SWPH-2,SWPH-3,SWPH-5,SWPH-7,SWPH-8,SWPH-9,SWPH-10,SWPH-11,SWPH-12,SWPH-13, SWPH-14	SWPH-4,SWPH-6
Archaeological/Historical	AH-1 through AH-15, AH-17	AH-16
Storm Drainage	SD-1 through SD-17	None
Flooding/Water Quality	FWQ-5, FWQ-6, FWQ-11, FWQ-12, FWQ-14, FWQ-15	FWQ-2, FWQ-3, FWQ-4, FWQ-13
Solid Waste	SW-1, SW-3	None
Hazardous Waste	HW-3, HW-13, HW-14, HW-19	HW-5, HW-12, HW-17, HW-18
Geology/Soils	GSM-3, GSM-4, GSM-6, GSM-10, GSM-11	None
Energy	E-6, E-10, E-15, E-16	None
Visual Resources	VR-1, VR-6, VR-8, VR-9	None
Climate Change	CL-2, CL-3, CL-5, CL-13	None

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the

project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

None.

Degradation of Air Quality:

None.

Generation of Noise:

Mitigation Measure NOI-1: During construction, the noise level from the Contractor's operations, between the hours of 9:00 p.m. and 7:00 a.m., shall not exceed 86 dBA at a distance of 35 feet. In addition, pile driving and jackhammer activities shall be prevented between 9:00 p.m. and 7:00 a.m. to minimize the noise disturbances on nearby residential receptors during the nighttime hours. This requirement shall not relieve the Contractor from responsibility for complying with local ordinances regulating noise level.

The noise level requirement shall apply to the equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the Contractor. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

Effects on Agricultural Lands:

None.

Increased Demand for Long-Term Water Supplies:

None.

Increased Demand for Sanitary Sewer Services:

None.

Loss of Sensitive Wildlife and Plant Habitat:

Mitigation Measure BIO-1: For lands that contain or potentially contain valley foothill riparian, riverine, wetland, grassland, and pasture habitats, site specific surveys shall be conducted by a qualified biologist to determine whether a sensitive natural communities or species are present within the proposed development area.

Surveys shall be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The significant results of such surveys

should be recorded onto the City's existing biological resources map for future planning purposes. These surveys have been completed in conjunction with preparation of the NESR.

Mitigation Measure BIO-2: All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to long-term conservation of the species and ecosystems on which they depend. The NESR recommends protection of these resources to the extent practicable.

Mitigation Measure BIO-3: Where formally listed species are determined present, consultation shall be carried out with the CDFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where a candidate or other special status category of species is involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

Mitigation Measure BIO-4: During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.

Mitigation Measure BIO-5: Measures to assure the project will have no affect on VELB:

- Prior to initiation of construction, the limits of all construction and staging areas will be staked. The staked areas will be surveyed by a qualified biologist. Based on these surveys, additional refinements to construction areas will be performed as necessary to ensure a minimum 20-foot setback from the dripline of all elderberry plants.
- Once the final limits of construction are set, brightly colored fencing (i.e., snow fencing) will be installed around the perimeter (at the drip line) of all elderberry plants within 100 feet of construction areas. A qualified biologist will be present during the installation of fencing.
- Contractors will be briefed on the need to avoid damage to elderberry plants and the possible penalties for not complying with these requirements.
- During the construction period, all elderberry plants within 100 feet of construction limits will be rinsed with clean water once each week unless rainfall makes this unnecessary.
- Signs will be posted every 50 feet along elderberry avoidance areas with the following information: "This is habitat for 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 shall be clearly readable from a distance of 20 feet and maintained for the duration of the project.
- During the construction period, a qualified biologist will inspect the construction areas on a regular basis to assure that the project is not affecting any elderberry plants.

Mitigation Measure BIO-6: Prior to initiating construction, snow fence shall be installed along the ESA boundaries to prevent encroachment into the riparian areas adjacent to the construction site.

Mitigation Measure BIO-7: Following completion of construction, all graded or disturbed areas within the riparian corridor on the north bank of the Tuolumne River (approximately 0.19 acre) shall be revegetated with riparian species in accordance with the Riparian Revegetation Guidelines contained in Appendix D of the NESR. Using an average tree spacing of 15 feet on center, approximately 36 trees will be planted throughout the 0.19 acre area that will be revegetated. These 36 trees are expected to adequately offset the removal of 20 trees during project implementation.

Mitigation Measure BIO-8: At least two weeks prior to the start of construction, a qualified biologist shall survey the riparian habitat within, and adjacent to (if possible), the project area for presence of nesting birds. If any nesting activity is observed, the City shall coordinate with CDFG to determine the best course of action.

Mitigation Measure BIO-9: All work in the live stream of the Tuolumne River will be conducted between June 15 and September 15.

Disturbance of Archaeological/Historic Sites:

None.

Increased Demand for Storm Drainage:

None.

Flooding and Water Quality:

Mitigation Measure HYDRO-1: The City of Modesto is advised that it is required to submit a letter of map revision request (LOMR) to FEMA because the proposed project involves construction in the regulatory floodway. In addition, FEMA regulations require that there be no increase in the water surface elevations for projects involving construction in the regulatory floodway. If there is an increase in the base flood elevations because of a project, the City would need to submit additional evidence to FEMA in accordance with the National Flood Insurance Program regulations outlined in 44 CFR, Section 65.12. Therefore, mitigation has been proposed by the project engineer to achieve no impact to the flood levels.

- Install a closed-cell type articulated concrete block (ACB) revetment to protect the Abutment 1, instead of a rock riprap revetment which was proposed in the design plans. A closed-cell Armorflex block system was chosen. This type of protection results in a smoother surface and decreases the roughness through the bridge. The modeled results indicate that the ACB revetment option mitigates the increased water surface elevations for both the 50-year and 100-year flood simulations.

Mitigation Measure HYDRO-2: Implementation of the following BMPs will reduce the potential for impacts upon water quality.

- Provide berms along the tops of slopes to prevent water from running uncontrolled down the slopes.
- Collect the water in these berms and take it down the slopes in an erosion-proof drainage system.
- Provide energy dissipaters and erosion control pads at the bottom of down drains.
- Install permanent landscaping, as soon as practical, after the completion of grading.

Mitigation Measure HYDRO-3: The following measures shall be included in the project drainage plans:

- The drainage plan shall include water quality control measures to ensure minimized contaminants in waters discharged to surface streams or percolated into the ground.
- The water quality control measures shall address both construction and operation periods.
- Fluvial erosion related to construction is controlled by a construction erosion control program which shall be filed with the City Utility Planning and Projects Department and kept current throughout any site development phase.

- The erosion control program shall include best management practices as appropriate, given the specific circumstances of the site and/or project.

Increased Demand for Parks and Open Space:

None.

Increased Demand for Schools:

None.

Increased Demand for Police Services:

None.

Increased Demand for Fire Services:

None.

Generation of Solid Waste:

None.

Generation of Hazardous Materials:

None.

Geology, Soils, and Mineral Resources:

None.

Energy:

None.

Effects on Visual Resources:

None.

Land Use and Planning:

None.

Climate Change:

None.

VI. DETERMINATION

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

- ☒ This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the MEIR. These additional potentially significant effects are potential impacts to loss of sensitive wildlife and plant habitat, flooding and water quality, and generation of noise.
- ☒ Feasible mitigation measures will be incorporated to revise the subsequent project before the Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

Mitigation measures are hereby applied to the Carpenter road Bridge Seismic Safety Project from the General Plan MEIR to reduce the impacts to an acceptable level; the full text of these measures are contained in the attached Mitigation Monitoring Program (Appendix A).

- ☒ There is no substantial evidence in light of the whole record before the public agency that the projects, as revised, may have a significant effect on the environment (CEQA Section 210064.5(2)).
- ☒ Based on the above-referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA 21157.5 et. seq. for the proposed seismic safety project.
- ☒ 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 the mitigation measures described have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☒ I further find that the cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan. This project proposed seismic retrofit improvements to improve the safety of the existing bridge and is consistent with that analyzed in the General Plan Master EIR and set forth in the Modesto Urban Area General Plan. Based on the seismic retrofit improvements, the City's Public Works Department has 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 Master EIR. 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 as this project generates no significant cumulative impact.
- ☒ As required by CEQA Section 21081.6 et. sec., a mitigation monitoring program (Appendix "A") will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6(b)).

Signature: Steve Pace Date: 2/19/2010

Steve Pace
Public Works Department Director
City of Modesto

REPORT PREPARERS

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REFERENCES

Modesto, City of, 2003. *Final Master Environmental Impact Report for the Urban Area General Plan*, certified October, 2008 (SCH #2007073023).

Modesto, City of, 1995. *City of Modesto Urban Area General Plan*.

San Joaquin Valley Air Pollution Control District, 2002. *San Joaquin Valley Air Basin Attainment Status*.

The following technical studies, etc. are relevant to this project and are available for review at the City of Modesto Engineering and Transportation Department, 1010 Tenth Street, Modesto, CA 95353:

Archaeological Survey Report prepared by LSA Associates, Inc. April 26, 2002

Hazardous Waste Initial Site Assessment prepared by LSA Associates, Inc. April 20, 2002.

Historic Property Survey Report prepared by LSA Associates, Inc. April 26, 2002

Hydraulic and Floodplain Evaluation Report prepared by LSA Associates, Inc. (April 20, 2002) and Hydraulic Analysis and Scour Evaluation prepared by West Consultants, Inc. March 29, 2001.

National Marine Fisheries Service - Letter of concurrence A not likely to adversely affect Threatened Central Valley steelhead" November 27, 2002.

Natural Environment Study Report prepared by LSA Associates, Inc. August 30, 2002.

APPENDIX A -
Mitigation Monitoring and Reporting Plan

The City of Modesto, as the lead agency under the California Environmental Quality Act (CEQA), has developed a mitigation monitoring and reporting list for the Carpenter Road Bridge Seismic Retrofit Project. This list is designed to ensure that the mitigation measures identified in the Project's Initial Study are implemented.

The following table contains a list of the avoidance, minimization, and/or mitigation measures. For each measure, the table identifies timing of implementation, party responsible for implementation, completion check box, and space for initials.

The City of Modesto is responsible for ensuring the implementation of all measures in this Mitigation Monitoring and Reporting List.

Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Degradation of Air Quality					
AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. (General Plan Policy VII-H.2[kk])	During Construction	Contractor	☐	_____	
AQ-43: All onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[ll])	During Construction	Contractor	☐	_____	
AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. (General Plan Policy VII-H.2[mm])	During Construction	Contractor	☐	_____	
AQ-46: When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. (General Plan Policy VII-H.2[oo])	During Construction	Contractor	☐	_____	
AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (General Plan Policy VII-H.2[pp])	During Construction	Contractor	☐	_____	
AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[qq])	During Construction	Contractor	☐	_____	

* The Resident Engineer (RE) is responsible for all activities obligatory of the contractor.
The RE should sign off for the contractor on all measures listed in the table as being a responsibility of the contractor.

Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])	During Construction	Contractor	☐	_____	
AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. (General Plan Policy VII-H.2[ss])	During Construction	Contractor	☐	_____	
Generation of Noise					
N-3: The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: • Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. • Equipment that is quieter than standard equipment should be utilized. • Haul routes that affect the fewest number of people should be selected. (UAGP VII¬G.3[a])	During Construction	City / Contractor	☐	_____	
The City of Modesto shall limit trucking to specific routes, times and speeds that minimize adverse effects to sensitive land uses such as schools and residential areas. (UAGP VII-G.3 [h])	During Construction	City / Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure NOI-1: During construction, the noise level from the Contractor's operations, between the hours of 9:00 p.m. and 7:00 a.m., shall not exceed 86 dBA at a distance of 35 feet. In addition, pile driving and jackhammer activities shall be prevented between 9:00 p.m. and 7:00 a.m. to minimize the noise disturbances on nearby residential receptors during the nighttime hours. This requirement shall not relieve the Contractor from responsibility for complying with local ordinances regulating noise level. The noise level requirement shall apply to the equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by the Contractor. The use of loud sound signals shall be avoided in favor of light warnings except those required by safety laws for the protection of personnel.	During Construction	Contractor	☐	_____	
Loss of Sensitive Wildlife and Plant Habitat					
SWPH-4: All projects that have a federal component and that may affect state water quality (including projects that require federal agency approval, such as issuance of a Section 404 permit) must also comply with Section 401 of the CWA. Thus, applicants for a Section 404 permit must also obtain certification from the Regional Water Quality Control Board (RWQCB). For effects on wetlands that are not under USACE jurisdiction, and therefore are not regulated under Section 404, applicants must still consult with the RWQCB for effects on waters of the state. The RWQCB generally issues waste discharge requirements for these effects.	Prior to Construction (prepare) / During Construction (implement)	City	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
SWPH-6: The DFG is also responsible for the streambed alteration agreements program. Under Fish and Game Code 1600, et seq, activities that would result in the diversion, obstruction or change in the natural flow or bed, channel or bank of a stream, lake or river; would use materials from a streambed; or would result in the deposition of debris, waste, or other material into a streambed must first be approved by the DFG through issuance of a streambed alteration agreement. The purpose of the streambed program is to limit damage to stream habitats. Streambed Alteration Agreement requirements would apply to Dry Creek, the Tuolumne and Stanislaus Rivers, and all of the canals.	Prior to Construction (prepare) / During Construction (implement)	City	☐	_____	
Mitigation Measure BIO-1: For lands that contain or potentially contain valley foothill riparian, riverine, wetland, grassland, and pasture habitats, site specific surveys shall be conducted by a qualified biologist to determine whether a sensitive natural communities or species are present within the proposed development area. Surveys shall be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes. These surveys have been completed in conjunction with preparation of the NESR.	Prior to Construction	City	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure BIO-2: All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to long-term conservation of the species and ecosystems on which they depend. The NESR recommends protection of these resources to the extent practicable.	Prior to Construction (prepare) / During Construction (implement)	City / Contractor	☐	_____	
Mitigation Measure BIO-3: Where formally listed species are determined present, consultation shall be carried out with the CDFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where a candidate or other special status category of species is involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.	Prior to Construction (prepare) / During Construction (implement)	City / Contractor	☐	_____	
Mitigation Measure BIO-4: During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.	During Construction	Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure BIO-5: Measures to assure the project will have no affect on VELB: • Prior to initiation of construction, the limits of all construction and staging areas will be staked. The staked areas will be surveyed by a qualified biologist. Based on these surveys, additional refinements to construction areas will be performed as necessary to ensure a minimum 20-foot setback from the dripline of all elderberry plants. • Once the final limits of construction are set, brightly colored fencing (i.e., snow fencing) will be installed around the perimeter (at the drip line) of all elderberry plants within 100 feet of construction areas. A qualified biologist will be present during the installation of fencing. • Contractors will be briefed on the need to avoid damage to elderberry plants and the possible penalties for not complying with these requirements. • During the construction period, all elderberry plants within 100 feet of construction limits will be rinsed with clean water once each week unless rainfall makes this unnecessary. • Signs will be posted every 50 feet along elderberry avoidance areas with the following information: "This is habitat for 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 shall be clearly readable from a distance of 20 feet and maintained for the duration of the project. • During the construction period, a qualified biologist will inspect the construction areas on a regular basis to assure that the project is not affecting any elderberry plants.	Prior to Construction (prepare) / During Construction (implement)	City / Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure BIO-6: Prior to initiating construction, snow fence shall be installed along the ESA boundaries to prevent encroachment into the riparian areas adjacent to the construction site.	Prior to Construction (prepare) / During Construction (implement)	City / Contractor	☐	_____	
Mitigation Measure BIO-7: Following completion of construction, all graded or disturbed areas within the riparian corridor on the north bank of the Tuolumne River (approximately 0.19 acre) shall be revegetated with riparian species in accordance with the Riparian Revegetation Guidelines contained in Appendix D of the NESR. Using an average tree spacing of 15 feet on center, approximately 36 trees will be planted throughout the 0.19 acre area that will be revegetated. These 36 trees are expected to adequately offset the removal of 20 trees during project implementation.	After Completion of Construction	City / Contractor	☐	_____	
Mitigation Measure BIO-8: At least two weeks prior to the start of construction, a qualified biologist shall survey the riparian habitat within, and adjacent to (if possible), the project area for presence of nesting birds. If any nesting activity is observed, the City shall coordinate with CDFG to determine the best course of action.	Prior to Construction (prepare) / During Construction (implement)	City / Contractor	☐	_____	
Mitigation Measure BIO-9: All work in the live stream of the Tuolumne River will be conducted between June 15 and September 15.	Prior to construction (prepare) / During construction (implement)	Town / Contractor	☐	_____	
Disturbance of Archaeological/Historical Sites					
AH-16: Any project that involves earth-disturbing activities within previously undisturbed soils in an area determined to be archaeologically or culturally sensitive by the City of Modesto through consultation with the Project Applicant and a qualified archaeologist and the Native Americans will be required to have the following mitigation measures, at a minimum:					

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
1. If prehistoric archaeological remains are discovered during the project construction (inadvertent discoveries), all work in the area of the find shall cease, and a qualified archaeologist shall be retained by the project sponsor to investigate the find, and make recommendations as to treatment and mitigation. In the event of the discovery of a burial, human bone or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the project applicant immediately shall notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, including Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor will also retain a Native American monitor. 2. A qualified archaeological monitor will be present and will have the authority to stop and redirect grading activities, in consultation with the Native Americans and their designated monitors, to evaluate the significance of any Native American archaeological resources discovered on the property. 3. Native American monitors from the appropriate Native American Tribes, as determined by the Native American Heritage Commission (NAHC) shall be allowed to monitor all groundbreaking activities, including all archaeological testing and data recovery excavations that are likely to affect Native American resources, as determined by a qualified archaeologist. The project proponent will be responsible for compensating Native American monitors. If human remains are discovered, the NAHC will assign a Most Likely Descendent (MLD). 4. The landowner agrees to relinquish ownership of all Native American human remains and associated burial artifacts that are found within the project area, to the appropriate Native American MLD, as assigned by the NAHC, for proper treatment and disposition. The MLD will decide whether standard archaeological analysis will be allowed on human remains and associated artifacts from burials. (UAGP Policy VII.F.2[m])	During construction	Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Flooding and Water Quality					
FWQ-2: The City will conform to federal standards for water quality, stormwater discharge, and "fill" of waters of the United States under the CWA.	Prior to construction	City	☐	_____	
FWQ-3: The State Board of Reclamation (Reclamation) requires an encroachment permit for any project within the boundaries of the Designated Floodways of the Tuolumne and Stanislaus Rivers and Dry Creek. The program is administered pursuant to Title 23 of the California Code of Regulations.	Prior to construction	City	☐	_____	
FWQ-4: Development will comply with applicable NPDES-permitting programs and Waste Discharge Requirements (WDRs) pursuant to the State Porter-Cologne Act. It will also be subject to Section 401 Water Quality Certification under the CWA.	Prior to construction	City	☐	_____	
FWQ-13: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3 [h])	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure HYDRO-1: The City of Modesto is advised that it is required to submit a letter of map revision request (LOMR) to FEMA because the proposed project involves construction in the regulatory floodway. In addition, FEMA regulations require that there be no increase in the water surface elevations for projects involving construction in the regulatory floodway. If there is an increase in the base flood elevations because of a project, the City would need to submit additional evidence to FEMA in accordance with the National Flood Insurance Program regulations outlined in 44 CFR, Section 65.12. Therefore, mitigation has been proposed by the project engineer to achieve no impact to the flood levels. • Install a closed-cell type articulated concrete block (ACB) revetment to protect the Abutment 1, instead of a rock riprap revetment which was proposed in the design plans. A closed-cell Armorflex block system was chosen. This type of protection results in a smoother surface and decreases the roughness through the bridge. The modeled results indicate that the ACB revetment option mitigates the increased water surface elevations for both the 50-year and 100-year flood simulations.	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	
Mitigation Measure HYDRO-2: Implementation of the following BMPs will reduce the potential for impacts upon water quality. • Provide berms along the tops of slopes to prevent water from running uncontrolled down the slopes. • Collect the water in these berms and take it down the slopes in an erosion-proof drainage system. • Provide energy dissipaters and erosion control pads at the bottom of down drains. • Install permanent landscaping, as soon as practical, after the completion of grading.	During construction	Contractor	☐	_____	

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The RE should sign off for the contractor on all measures listed in the table as being a responsibility of the contractor.

Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Mitigation Measure HYDRO-3: The following measures shall be included in the project drainage plans: • The drainage plan shall include water quality control measures to ensure minimized contaminants in waters discharged to surface streams or percolated into the ground. • The water quality control measures shall address both construction and operation periods. • Fluvial erosion related to construction is controlled by a construction erosion control program which shall be filed with the City Utility Planning and Projects Department and kept current throughout any site development phase. • The erosion control program shall include best management practices as appropriate, given the specific circumstances of the site and/or project.	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	

* The Resident Engineer (RE) is responsible for all activities obligatory of the contractor.
The RE should sign off for the contractor on all measures listed in the table as being a responsibility of the contractor.

Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
Generation of Hazardous Materials					
HM-5: In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant. The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City. If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel. In accordance with [Occupational Safety and Health Administration] requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (UAGP Policy V-M.2[c])	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	

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Mitigation Measure	Timing	Responsible Party*	Completed	Initials	Notes (optional)
HM-12: The City shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board Basin Plan for surface discharges and Environmental Protection Agency for underground injection. (UAGP Policy V-E.3[c])	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	
HM-17: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V-E.3[h])	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	
HM-18: For developments within a mapped 100-year floodplain, studies shall be prepared that demonstrate how the development will comply with both the construction and post-construction programs under the City's municipal NPDES permit. Developments in these areas shall not lead to increased erosion or releases of other contaminants that would cause violations of the City's municipal NPDES permit. (UAGP Policy V-E.3[i])	Prior to construction (prepare) / During construction (implement)	City / Contractor	☐	_____	

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APPENDIX B -
CEQA 30 Day Public Circulation and Response to Comments

The City of Modesto, as the lead agency under the California Environmental Quality Act (CEQA), advertised and circulated this document to the public pursuant to CEQA guidelines for 30 days. As a result of that circulation one comment was received from the California State Lands Commission. This comment was received after the 30 day review period; however, a representative from the State Lands Commission had requested in writing a 7 day extension to provide comments which the City of Modesto approved. A letter from the California Office of Planning and Research State Clearinghouse was received on January 14th, 2010, which identifies that only one comment was received. The following section includes the comment from the State Lands Commission and a brief discussion of how those comments were addressed by making changes to the Environmental Document.

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

PAUL D. THAYER, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1900**
Contact FAX: **(916) 574-1885**

January 13, 2010

File Ref: SCH# 2009122028

Steve Pace
City of Modesto
PO Box 642
Modesto, CA 95353

Subject: Carpenter Road Bridge Seismic Retrofit Project

Dear Mr. Pace:

Staff of the California State Lands Commission (CSLC) has reviewed the subject document. Under the California Environmental Quality Act (CEQA), the City of Modesto is the Lead Agency and the CSLC is a Responsible and/or Trustee Agency for any and all projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. For this project, the CSLC would act as a Responsible and Trustee Agency.

As general background, the State acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all the people of the State for statewide Public Trust purposes of waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. The State owns sovereign fee title to tide and submerged lands landward to the mean high tide line (MHTL) as they existed in nature, prior to fill or artificial accretions. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, as they last naturally existed. The State's sovereign interests are under the jurisdiction of the CSLC.

The Tuolumne River at this location is State-owned sovereign land under the jurisdiction of the CSLC. A 49-year lease was issued to the County of Stanislaus for the Carpenter Road Bridge beginning on June 18, 1958. The lease expired on June 17, 2007. The County of Stanislaus has submitted an application to obtain a new lease for the bridge; however, additional information is required before a lease can be issued. In addition, an amended application will be required to be submitted to the CSLC by the County of Stanislaus to describe the proposed seismic retrofit.

CSLC staff will rely on the Mitigated Negative Declaration (MND) prepared by the city of Modesto for the Carpenter Road Bridge Seismic Retrofit Project in order to make our CEQA determination for the amendment to the lease with the County of Stanislaus.

Staff has concerns about the adequacy of the MND with regard to its lack of analysis for the impacts of greenhouse gases (GHGs) generated by the seismic retrofit construction activity on the bridge. As part of the air quality analysis, please include GHG information consistent with the California Global Warming Solutions Act (AB 32) and Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97. For each construction activity, this would include a determination of the greenhouse gases that would be emitted, a determination of the significance of the impact, and mitigation measures to reduce that impact.

Please contact Michelle Clark, Public Land Management Specialist, at 916-574-0200 or at clarkm@slc.ca.gov. If you have any questions concerning the environmental review, please contact Sarah Mongano at (916) 574-1889 or by e-mail at mongans@slc.ca.gov.

Sincerely,

Marina R. Brand

Marina R. Brand, Acting Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
M. Clark, CSLC
D. Jones, CSLC
S. Mongano, CSLC

Response to Comments

Thank you for your comments; they will be documented in the final environmental documents.

Comment 1 – State Land Commission Lease

The information provided was not included in the draft version of this environmental document. A new section has been added to Section 20: Land Use and Planning which outlines the history of the lease between the State Lands Commission and the County of Stanislaus. Additionally, discussion has been added to document that the City of Modesto will consult with the County of Stanislaus to provide suitable project description and other project information for inclusion in the amended lease agreement between the State Lands Commission and the County.

Comment 2 – Greenhouse Gasses

Adequate discussion of Climate Change and project related Greenhouse Gasses are already included in the document. Section 21: Climate Change addresses the potential for impacts related to Greenhouse Gas emissions. The following section is included in the environmental document which addresses this:

As discussed in Section 2 – Air Quality, the project will not have any significant impacts to air quality. For the same reasons, the project will not have any significant impacts on Climate Change. Since the purpose of the project is to improve safety of the existing bridge over the Tuolumne River, and because the proposed retrofit would not add additional travel lanes or result in traffic volume increases, no additional significant GHG emissions are expected as a result of the project.

Construction related air quality impacts are temporary and are typically not considered significant impacts under CEQA. Minimization and Mitigation measures from the City of Modesto General Plan have been included in this environmental document under both Section 2: Degradation of Air Quality and Section 21: Climate Change. Inclusion of these measures would minimize potential temporary construction related air quality and greenhouse gas emission impacts to a less than significant level.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-088

RESOLUTION APPROVING A MODIFIED PHASE II PROJECT LIST AND SPENDING PLAN FOR PROPOSITION 1B FUNDS

WHEREAS, the City receives an allocation from the State of California of Prop 1B funds based on population, and.

WHEREAS, in order to be eligible for these funds, a Council-approved spending plan is necessary, and

WHEREAS, the Prop 1B program called for the allocations to be divided and disbursed in two phases, and

WHEREAS, in 2008, the City received $3,364,421 in Phase I funds and is in the process of executing the Council-approved plan for those funds, and

WHEREAS, on January 26, 2010, by Resolution 2010-046, City Council approved a spending plan and application for $3,174,344 in Phase II funds, returning at a future date with a street maintenance program report, which would include a discussion of the street maintenance projects on the Phase II list, and

WHEREAS, due to the receipt of ARRA funds for street maintenance projects, the Prop 1B original Council-approved spending plan needs to be modified and re-submitted to the State Department of Finance, and

WHEREAS, in April 2009, the City received $3,211,414 in ARRA funds for cape and slurry seal projects, and

WHEREAS, ARRA funding required that the projects be bid ready in a very short time frame and many of the projects slated for Prop 1B funds were funded using the ARRA funds, and

WHEREAS, allowing staff to reorganize the project list of streets and roads on the Prop 1B spending plan to include more streets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a modified Phase II project list and spending plan for Proposition 1B funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Lopez

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-089

RESOLUTION APPROVING A MODIFIED PHASE II PROJECT LIST AND SPENDING PLAN FOR PROPOSITION 1B FUNDS WHICH INCLUDES NEEDHAM AVENUE (COLLEGE AVENUE TO 'L' STREET), W ROSEBURG (MC HENRY TO VIRGINIA) AND SYCAMORE (ROSEBURG TO ORANGEBURG)

WHEREAS, the City receives an allocation from the State of California of Prop 1B funds based on population, and.

WHEREAS, in order to be eligible for these funds, a Council-approved spending plan is necessary, and

WHEREAS, the Prop 1B program called for the allocations to be divided and disbursed in two phases, and

WHEREAS, in 2008, the City received $3,364,421 in Phase I funds and is in the process of executing the Council-approved plan for those funds, and

WHEREAS, on January 26, 2010, by Resolution 2010-046, City Council approved a spending plan and application for $3,174,344 in Phase II funds, returning at a future date with a street maintenance program report, which would include a discussion of the street maintenance projects on the Phase II list, and.

WHEREAS, due to the receipt of ARRA funds for street maintenance projects, the Prop 1B original Council-approved spending plan needs to be modified and re-submitted to the State Department of Finance, and

WHEREAS, in April 2009, the City received $3,211,414 in ARRA funds for cape and slurry seal projects, and

WHEREAS, ARRA funding required that the projects be bid ready in a very short time frame and many of the projects slated for Prop 1B funds were funded using the ARRA funds, and

WHEREAS, allowing staff to reorganize the project list of streets and roads on the Prop 1B spending plan to include Needham Avenue (College Avenue to 'L' Street), W Roseburg (McHenry to Virginia), and Sycamore (Roseburg to Orangeburg).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a modified Phase II project list and spending plan for Proposition 1B funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Lopez

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-90

A RESOLUTION APPROVING AN AGREEMENT WITH DOKKEN ENGINEERING TO PREPARE THE PLANS SPECIFICATIONS & ESTIMATES (PS&E) FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED $3,011,832; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99/Pelandale Avenue Interchange reconstruction project is a project to address the traffic congestion at the State Route 99/Pelandale Avenue Interchange, and

WHEREAS, in an effort to accelerate planning and construction of the interchange improvements, the City Council approved $1.3M in the FY2005-06 Capital Improvement Program and subsequently approved staff's request to explore the City of Modesto taking the lead on the State Route 99/Pelandale Avenue Interchange Improvements – Project Approval and Environmental Document (PA&ED), and

WHEREAS, following Council approval, City staff worked with the California Department of Transportation (Caltrans) and StanCOG to obtain lead agency status for this project, and

WHEREAS, City staff hired Dokken Engineering as a consultant to study viable alternatives and complete the PA&ED, and

WHEREAS, an initial study with Mitigated Negative Declaration was prepared by the City's consultant and submitted to the State of California Department of Transportation (Caltrans) for approval. This Document (SCH# 2009072012) was approved by Caltrans on September 28, 2009, and

WHEREAS, on February 3, 2009, the City Council, by Resolution No. 2009-058, approved a Cooperative Agreement between the City of Modesto and Caltrans for the preparation of Plans Specifications and Estimates (PS&E) for the State Route 99/Peleandale

Avenue Interchange Reconstruction Project. This Cooperative Agreement formalized the City's lead agency status for preparation of PS&E, and

WHEREAS, in compliance with Local Assistance Procedures Manual and Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for similar transportation projects, City staff wrote a Request for Proposal which was sent to over forty two (42) engineering and architectural firms, and

WHEREAS, five (5) firms responded and were interviewed, and

WHEREAS, Dokken Engineering was selected as the most qualified, and

WHEREAS, after contract negotiations, City staff felt Dokken's fee was acceptable, and

WHEREAS, City staff recommends an agreement with Dokken Engineering as the City does not have the staffing level or subject matter expertise to complete the PS&E for State Route 99/Pelandale Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Dokken Engineering to prepare the Plans Specifications & Estimates for the State Route 99/Pelandale Interchange Reconstruction Project in an amount not to exceed $3,011,832.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

AMENDED FOR CLERICAL ERROR

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-091

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE $3,011,832 FROM STREET CAPITAL FACTILITY FEES FUND BALANCE TO CIP ACCOUNT 1410-160-E740 AND TO INCREASE THE EXPENSE BUDGET BY THE SAME AMOUNT IN ORDER TO FULLY FUND THE AGREEMENT WITH DOKKEN ENGINEERING FOR THE PLANS SPECIFICATIONS & ESTIMATES AND ADMINISTRATIVE SUPPORT BY CITY STAFF FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.

WHEREAS, certain budgetary transactions are necessary in the amount of $3,011,832, in order to fully fund the Plans Specification & Estimates (PS&E) contract and project management by City staff for the State Route 99/Pelandale Interchange Reconstruction Project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget should be amended as follows by appropriating $3,011,832 from Streets Capital Facility Fees fund balance and increasing the expense budget in:

PS&E Preparation Contract Dokken Engineering

MY-1410-160-E740-6080 $3,011,832

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget by appropriating $3,011,832 from Streets Capital Facility fund balance to Account No. 1410-160-E740 and increasing the expense budget by that amount in order to fully fund the Agreement with Dokken Engineering for the Plans Specifications & Estimates and administrative support by City staff for the State Route 99/Pelandale Avenue Interchange Reconstruction Project.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of March 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-092

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DENNIS WISTER FROM THE LANDMARK PRESERVATION COMMISSION

WHEREAS, Dennis Wister was appointed a member of the Landmark Preservation Commission on July 23, 2003 and

WHEREAS, Dennis Wister has tendered his resignation from the Landmark Preservation Commission and

NOW, THERFORE, BE IT RESOLVED that the resignation of Dennis Wister from the Landmark Preservation Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Dennis Wister for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-093

RESOLUTION REAPPOINTING BARBARA PARRILL TO THE CITY OF MODESTO LANDMARK PRESERVATION COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Barbara Parrill was originally appointed to the Landmark Preservation Commission on February 28, 2010 and

WHEREAS, Barbara Parrill has expressed interest in continuing to serve as a member of the Landmark Preservation Commission,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Barbara Parrill is hereby reappointed to the Landmark Preservation Commission with a term expiration of January 1, 2014,

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-094

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC SIGNALS REPORT FOR 2009

WHEREAS, Traffic Engineering staff does not recommend any changes this year, and

WHEREAS, the City now has protected-permissive signal phasing at 47 intersections, and

WHEREAS, protected-permissive phasing provides more important non-tangible benefits, such as, reduced driver anxiety and a second chance to turn left during the same cycle, and

WHEREAS, staff recommends continuing the use of protected-permissive phasing at appropriate locations and monitoring these installations for improvements and/or modifications based on periodic technical analysis, and

WHEREAS, Traffic Engineering staff removed protected-permissive phasing for northbound and southbound Oakdale Road motorists at Wylie Drive and for eastbound Pelandale Avenue motorists at Chapman Road as left-turning motorists are crossing three through lanes of traffic at these locations, and

WHEREAS, all 47 protected-permissive signalized intersections have acceptable safety records this reporting cycle, and

WHEREAS, the Economic Development Committee approved this item at its February 8, 2010, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Protected-Permissive Traffic Signals Report for 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-095

A RESOLUTION APPROVING A PREQUALIFIED CONSULTANT LIST FOR RIGHT-OF-WAY ACQUISITION SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS WITHIN THE CITY OF MODESTO

WHEREAS, the City of Modesto has one Property Agent position allocation in the Utility Planning and Projects Department, and

WHEREAS, there are currently a large number of Capital Improvement Projects (CIP) requiring right-of-way acquisition, and

WHEREAS, the existing list of right-of-way acquisition vendors was established in 2001 and needs to be updated, and

WHEREAS, having a list of prequalified consultants for right-of-way acquisition will save time and expense on each project, and

WHEREAS, on December 22, 2009, the Community & Economic Development Department solicited Request for Qualifications for the delivery of right-of-way acquisition services for the City of Modesto to five (5) prospective qualifiers and posted the request on the City's web site, and

WHEREAS, eleven (11) Statements of Qualifications were received on or before the deadline of January 22, 2010, and

WHEREAS, an evaluation committee composed of staff from Community & Economic Development, Parks, Recreation and Neighborhoods, and Utility Planning and Projects evaluated the Statements of Qualifications, and

WHEREAS, the following four (4) companies were selected by the evaluation committee to be on the City's eligibility list:

Associated Right of Way Services
Overland, Pacific & Cutler
Universal Field Services, Inc.
Bender Rosenthal

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified consultant list for right-of-way acquisition services for various Capital Improvement Projects 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 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-096

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "CONSTRUCTION OF RIGHT-TURN LANES AT CARPENTER ROAD/SISK ROAD AND AT ORANGEBURG AVENUE/BRIGGSMORE AVENUE;" ACCEPTING THE BID; APPROVING A CONTRACT FOR THE PROJECT WITH ROSS F. CARROLL, INC. FOR $590,975.99; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, Traffic Engineering staff applied for, and received, Congestion Mitigation Air Quality (CMAQ) funding for the construction of right-turn lanes, and

WHEREAS, this project will construct right-turn lanes at Carpenter Road/Sisk Road and at Orangeburg Avenue/Briggsmore Avenue, and

WHEREAS, bids for this project were opened on January 26, 2010, and

WHEREAS, Ross F. Carroll, Inc. was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Construction of Right-Turn Lanes at Carpenter Road/Sisk Road and at Orangeburg Avenue/Briggsmore Avenue," accepts the bid, and approves a contract with Ross F. Carroll, Inc. for $590,975.99.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-097

A RESOLUTION APPROVING AN AGREEMENT TO ENTER AND CONSTRUCT IMPROVEMENTS WITH CHEVRON USA INC., FOR PROPERTY LOCATED AT 2101 SYLVAN AVENUE (APN 052-063-025), FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Oakdale Road to include a southbound right turn lane at the northwest corner of Oakdale Road and Sylvan Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane at 2101 Sylvan Avenue (APN 052-063-025) owned by Chevron USA Inc., and

WHEREAS, on November 3, 2008, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, the project is consistent and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City requires an Agreement to Enter and Construct Improvements prior to allowing construction on the subject property, and

WHEREAS, the City Council of Modesto directed staff to present an Agreement to Enter and Construct Improvements to the landowner to construct improvements on the subject property as required for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement to Enter and Construct with Chevron USA Inc., for the property located at 2101 Sylvan Avenue (APN 052-063-025).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-098

A RESOLUTION APPROVING THE REQUEST BY STANISLAUS COUNTY TO EXPAND THE GEOGRAPHIC BOUNDARIES OF THE ENTERPRISE ZONE BY 101.65 ACRES AND DIRECT THE STANISLAUS ECONOMIC DEVELOPMENT AND WORKFORCE ALLIANCE, AS THE STANISLAUS ENTERPRISE ZONE ADMINISTRATOR, TO SUBMIT A WRITTEN REQUEST TO EXPAND THE STANISLAUS ENTERPRISE ZONE – ZONE 40 BOUNDARIES TO THE CALIFORNIA DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

WHEREAS, the County of Stanislaus currently has an Enterprise Zone that was established on November 16, 2005, and has jurisdiction over the existing zone, as well as the proposed expansion area, and

WHEREAS, existing law allows an Enterprise Zone to expand its geographic boundaries up to a maximum of 15% of the original zone boundaries, and

WHEREAS, the Stanislaus Enterprise Zone is comprised of 67,508 acres and has an expansion capacity of approximately 10,126 acres, and

WHEREAS, Stanislaus County wishes to expand the boundaries of its Enterprise Zone by approximately 101.65 acres in the unincorporated area to include Duarte Trees and Vines, a.k.a. California Winelands, LLC, and

WHEREAS, land included within the proposed expansion area is zoned for commercial use, and

WHEREAS, basic infrastructure is available to the area that would be included in the proposed expansion area, and

WHEREAS, Stanislaus County will provide the same or equivalent local incentives in the expansion area as provided to the existing Enterprise Zone, and

WHEREAS, Stanislaus County will submit a written request as required to the

California Department of Housing & Community Development to have its enterprise zone boundaries expanded,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the request from Stanislaus County to expand the geographical boundary of the Stanislaus County Enterprise Zone to include Duarte Trees & Vines, a.k.a. California Winelands, LLC.

BE IT FURTHER RESOLVED that the Stanislaus Economic Development and Workforce Alliance, as the Stanislaus EZ Administrator, is hereby directed to submit the written request and required accompanying documentation to expand the Enterprise Zone boundaries to the California Department of Housing & Community Development.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-099

A RESOLUTION APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF MODESTO AND CHURCH OF THE CROSS, REFORMED CHURCH IN AMERICA, FOR A PORTION OF THE PROPERTY LOCATED AT 3936 DALE ROAD (APN 076-034-001) IN THE AMOUNT OF $23,600.00; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Dale Road to include a northbound right turn lane at the southeast corner of Dale Road and Snyder Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane at 3936 Dale Road (APN 076-034-001) owned by Church of the Cross, Reformed Church in America, and

WHEREAS, the project as planned requires the acquisition of the property interests owned by Church of the Cross, Reformed Church in America, and

WHEREAS, on November 3, 2008, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, the project is consistent and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City requires a Purchase Agreement prior to construction on the subject property, and

WHEREAS, the City Council of Modesto directed staff to present a Purchase Agreement to the landowner to construct improvements on the subject property as required for the project, and

WHEREAS, staff recommends the City proceed with the purchase of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase Agreement between City of Modesto and Church of the Cross, Reformed Church in America, for a portion of the property located at 3936 Dale Road (APN 076-034-001), in the amount of $23,600.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase Agreement and all related documents required to close escrow for the Congestion Mitigation Air Quality (CMAQ) Management CML 5050 (149) – Right Turn Lanes (4) Intersections Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-100

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CERTIFICATE OF ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUSITION OF A PORTION OF THE PROPERTY LOCATED AT 3936 DALE ROAD (APN: 076-034-001), OWNED BY CHURCH OF THE CROSS, REFORMED CHURCH IN AMERICA, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of the property located at 3936 Dale Road (APN 076-034-001), owned by church of the Cross, Reformed Church in America, for the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute a Certificate of Acceptance Form for the Grant Deed for the acquisition of a portion of the property located as 3936 Dale Road (APN 076-034-001), owned by Church of the Cross, Reformed Church in America, to be purchased by the City of Modesto for the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-101

A RESOLUTION APPROVING AN AGREEMENT TO ENTER AND CONSTRUCT IMPROVEMENTS WITH PROPERTY OWNED BY MADRUGA CAR WASHES LLC, LOCATED AT 2101 SYLVAN AVENUE (APN 052-063-023), FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Oakdale Road to include a southbound right turn lane at the northwest corner of Oakdale Road and Sylvan Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane at 2101 Sylvan Avenue (APN 052-063-023) owned by Madruga Car Washes II, and

WHEREAS, on November 3, 2008, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, the project is consistent and is in conformance with the General Plan Master EIR and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City requires an Agreement to Enter and Construct Improvements prior to allowing construction on subject property, and

WHEREAS, the City Council of Modesto directed staff to present an Agreement to Enter and Construct Improvements to the landowner to construct improvements on the subject property as required for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement to Enter and Construct located at 2101 Sylvan Avenue (APN 052-063-023), owned by Madruga Car Washes II.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-102

A RESOLUTION APPROVING AN AGREEMENT TO ENTER AND CONSTRUCT IMPROVEMENTS AT THE PROPERTY OWNED BY KING OF THE CENTRAL VALLEY II, LOCATED AT 2101 SYLVAN AVENUE (APN 052-063-024), FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Oakdale Road to include a southbound right turn lane at the northwest corner of Oakdale Road and Sylvan Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane at 2101 Sylvan Avenue (APN 052-063-024) owned by King of the Central Valley II, and

WHEREAS, on November 3, 2008, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, the project is consistent and is in conformance with the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City requires an Agreement to Enter and Construct Improvements prior to allowing construction on the subject property, and

WHEREAS, the City Council directed staff to present the Agreement to Enter and Construct Improvements to the landowner to construct improvements on the subject property as required for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement to Enter and Construct Improvements located at 2101 Sylvan Avenue (APN 052-063-024), owned by King of the Central Valley II.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-103

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Director of Finance, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY & ECONOMIC DEVELOPMENT

A budget adjustment transferring $401,650 of revenues from the Federal Transportation Equity Act for the 21Century, Congestion Mitigation Air Quality-Federal Transportation Improvement Program to Service Credit Revenues in order to fund staff time spent on federally funded projects.

FINANCE

A budget adjustment is necessary to increase a transfer from the General Fund and the Redevelopment Agency Fund to the Debt Service Fund for FY2009-10. This increase is due to the nature of the variable interest rates associated with the debt and to budget additional expense for the remarketing fees associated with the 2008 Lease Revenue Bonds. The General Fund transfer will increase from $2,669,467 to $2,843,830, an increase of $174,363. The Redevelopment Agency transfer will increase from $980,676 to $1,044,732, an increase of $64,056.

Capital Project Fund 2641 and Debt Service Fund 2642 are associated with CFD No. 2003-1 (Fairview Village). All capital projects are budgeted in Fund 2641. Fund 2642 is where annual facilities special tax revenue is deposited. Pursuant to the formation documents for CFD No. 2003-1, any special facilities taxes collected in excess of the debt service payment can be used to pay for the facilities authorized to be funded by CFD No 2003.1. A budget adjustment of $278,852 is necessary to move funds from the Debt Service Fund to the Capital Project Fund to pay for the cost of authorized facilities that were funded through the Capital Project Fund.

PUBLIC WORKS

A budget adjustment is necessary to transfer funds in the amount of $6,000,000 from the Water Fund (6100) to the Water Capital Improvement Project Fund (6180) for expenses incurred from various capital improvement projects in FY2008-09.

Another budget adjustment is necessary to transfer funds in the amount of $93,585 from the Water Fund (6100) to Fairview Interim Water Improvement Fund (6181) for expenses incurred from Capital Improvement Project W984 (Water Main Reimbursement).

An adjustment is necessary to: 1) reduce expenditures of Capital Improvement Project B125-6010, Wastewater Collection System GIS Update, in the amount of $12,000, and return the funds to Wastewater Fund Reserves; and 2) transfer $12,000 from that Wastewater Fund Reserve to Wastewater Branch (Org 5212) Salary and Wages Part-Time in order to fund an intern to update the Wastewater GIS Data System through September 2010, or when a permanent employee can be hired. Updating the GIS System is a requirement of the Waste Discharge Requirements Permit for Collections.

UTILITY PLANNING & PROJECTS

An adjustment is necessary to reduce appropriations by $8,781 in the Capital Improvement Project W368, Wellhead Treatment W21 PCE-Secondary and to close the account. This adjustment also returns the funds back to Water Fund Capital Improvement Project Reserves.

The project is complete and ready for closure. In addition, this adjustment reduces revenue in the amount of $168,955 and returns unused funds to the Water PCE Litigation Fund.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-104

A RESOLUTION DECLARING AS SURPLUS FROM MARCH 1, 2010 THROUGH FEBRUARY 28, 2011, THE FOLLOWING ITEMS: LOST, STOLEN, UNCLAIMED AND/OR SEIZED PROPERTY FROM THE POLICE DEPARTMENT, EXCESS PROPERTY ACCUMULATED BY THE CITY AND SURPLUS CITY VEHICLES AND EQUIPMENT; AND AUTHORIZING THE PURCHASING DIVISION TO SELL SAME BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, ONLINE, OR AS SCRAP, OR DONATE TO AN ELIGIBLE NON-PROFIT (501C3) ORGANIZATION

WHEREAS, Section 801 of the City Charter authorizes the City Manager to sell obsolete, unclaimed, or surplus personal property of the City with the approval of the City Council, and

WHEREAS, the City's surplus items consist of: (1) lost, stolen, unclaimed and/or seized property from the Police Department, (2) excess property accumulated by the City, and (3) surplus City vehicles and equipment, and

WHEREAS, currently the City's auctioneering services are provided by The Auction House, and

WHEREAS, the Purchasing Division will also sell selected surplus property online through PublicSurplus.com, an online auction company, or directly online, and

WHEREAS, the items sold online would consist of surplus items that could possibly bring a higher price over use of a conventional auction, and

WHEREAS, revenues from the sale of surplus Fleet vehicles/equipment (less administrative fees) are deposited into the Fleet Replacement Fund, 7210, and

WHEREAS, all revenues received (less administrative fees) from the sale of non-rolling stock are deposited in the General Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Council in accordance with Section 801 of the City Charter and Section 2.7.06 of the Modesto Municipal Code hereby declares as surplus from March 1, 2010 through February 28, 2011, the property items set forth above.

SECTION 2. The City Manager, or the Purchasing Manager, acting as the City Manager's designated representative, are hereby authorized and directed to sell same by sealed bid, consignment, public auction, online auction, online or as scrap or to donate to an eligible non-profit (501c3) organization.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-105

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO AN EIGHTEEN (18) MONTH, AT WILL, TRIAL AGREEMENT WITH PROPERTYROOM.COM FOR ONLINE AUCTIONING OF LOST, STOLEN, UNCLAIMED AND/OR SEIZED PROPERTY FROM THE MODESTO POLICE DEPARTMENT

WHEREAS, Section 801 of the City Charter authorizes the City Manager to sell obsolete, unclaimed, or surplus personal property of the City with the approval of the City Council, and

WHEREAS, the City's surplus items consist of: (1) lost, stolen, unclaimed and/or seized property from the Police Department, (2) excess property accumulated by the City, and (3) surplus City vehicles and equipment, and

WHEREAS, currently the City's auctioneering services are provided by The Auction House, and

WHEREAS, the Purchasing Division also sells selected surplus property online through PublicSurplus.com, an online auction company, or directly online, and

WHEREAS, the Police Department would like to explore selling selected items online with PropertyRoom.com through a eighteen (18) month, at will, trial agreement in hopes of possibly bringing a higher price over use of a conventional auction, and

WHEREAS, all revenues received (less administrative fees) from the sale of lost, stolen, unclaimed and/or seized property from the Police Department will be deposited in the General Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Manager, or his designee, is hereby authorized to enter into an eighteen (18) month, at will, trial agreement with PropertyRoom.com for online auctioning of lost, stolen, unclaimed and/or seized property from the Modesto Police Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-106

RESOLUTION APPROVING THE CITY OF MODESTO'S APPLICATION FOR URBAN GREENING GRANT PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84) FOR THE IMPLEMENTATION OF THE STREET TREE REPLACEMENT PROGRAM

WHEREAS, the Legislature and Governor of the State of California have provided funds for the Urban Greening Grant Program, and

WHEREAS, the Strategic Growth Council has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said procedures require a resolution certifying the approval of application by the City's governing board before submission of said application to the State, and

WHEREAS, the City of Modesto Urban Forestry Division has completed a plan to rejuvenate and expand the City's urban forest and has anticipated that the grant funds can be used to implement this plan, and

WHEREAS, the City, if selected, will enter into an agreement with the State of California to carry out the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Parks, Recreation and Neighborhoods Director, to file an application for the Urban Greening Grant Program under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for the implementation of the Street Tree Replacement Program, and

1. Certifies that said applicant understands the assurances and certification in the application, and

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project consistent with the land tenure requirements, or will secure the resources to do so, and

3. Delegates authority to the Director of Parks, Recreation and Neighborhoods to conduct all negotiations, sign and submit all documents; including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope, and

4. Certifies that applicant will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1, 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, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained, and

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

7. The delegation of authority will expire June 30, 2016.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED
Print
AUG - 4 2010
THE RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-322

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-107

RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL USED OIL PAYMENT PROGRAMS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT RELATED DOCUMENTS; AND RESCINDING RESOLUTION NO. 2009-021

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining used oil recycling programs throughout the State, and

WHEREAS, the funds are disbursed via grants from the California Integrated Waste Management Board (CIWMB), and

WHEREAS, the CIWMB and the California Department of Conservation, Division of Recycling (DOC-DOR), have merged to create the California Department of Resources, Recycling and Recovery (CALRECYCLE), and

WHEREAS, CALRECYCLE has the responsibility for the administration of the used oil recycling programs within the State and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, CALRECYCLE allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves grant applications to the California Department of Resources, Recycling and Recovery (CALRECYCLE) for used oil recycling programs and the acceptance of grant awards.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents.

BE IT FURTHER RESOLVED that this resolution is an open-ended resolution and shall remain in full force and effect until rescinded by the Modesto City Council.

BE IT FURTHER RESOLVED that the current budget be amended to reflect increases in revenue from grant awards.

BE IT FURTHER RESOLVED that Resolution No. 2009-021 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

RESCINDED

Aug. 5, 2015

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2015-271

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-108

RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL HAZARDOUS WASTE RECYCLING GRANTS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT RELATED DOCUMENTS

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining hazardous waste recycling programs throughout the state, and

WHEREAS, the funds were disbursed via grants from the California Integrated Waste Management Board (CIWMB), and

WHEREAS, the CIWMB and the California Department of Conservation, Division of Recycling (DOC-DOR), have merged to create the California Department of Resources, Recycling and Recovery (CALRECYCLE), and

WHEREAS, CALRECYCLE has the responsibility for the administration of the hazardous waste recycling programs within the State and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, CALRECYCLE allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves grant applications to the California Department of Resources, Recycling and Recovery (CALRECYCLE) for hazardous waste recycling programs and the acceptance of grant awards.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents.

BE IT FURTHER RESOLVED that this resolution is an open-ended resolution and shall remain in full force and effect until rescinded by the Modesto City Council.

BE IT FURTHER RESOLVED that the current budget be amended to reflect increases in revenue from grant awards.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED
APR 14 2015
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2015-113

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-109

RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL SOLID WASTE AND RECYCLING PROGRAMS, ACCEPTING GRANT AWARDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXCECUTE ALL GRANT RELATED DOCUMENTS, AND RESCINDING RESOLUTION NOS. 2008-597 AND 2008-598

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste and recycling programs throughout the State, and

WHEREAS, the funds were disbursed via grants from the California Integrated Waste Management Board (CIWMB) and the California Department of Conservation, Division of Recycling (DOC-DOR), and

WHEREAS, the CIWMB and the DOC-DOR have merged to create the California Department of Resources, Recycling and Recovery (CALRECYCLE), and

WHEREAS, CALRECYCLE has the responsibility for the administration of the solid waste and recycling programs within the State and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, CALRECYCLE allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding for up to a five year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves grant applications to the California Department of Resources, Recycling and Recovery (CALRECYCLE) for all solid waste and recycling programs grants, and accepting grant awards.

RESCINDED
MAR - 3 2015
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2015-69, 70 & 71

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant related documents.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.

BE IT FURTHER RESOLVED that Resolution Nos. 2008-597 and 2008-598 are hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED BY MODESTO CITY COUNCIL RESO 2010-303
JULY 6, 2010

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-110

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE APRIL 1, 2010, INCLUDING FUEL COST, AND RESCINDING RESOLUTION NO. 2009-563

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated March 11, 2009, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to the Maximum Charges for Garbage Service as **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective April 1, 1010, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2009-563 is hereby rescinded effective April 1, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. Standard container service –

a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$22.59 per month** regardless of size of container. A fuel component of $0.93 per month is included in the maximum rate for the quarter beginning October 1, 2009 and ending December 31, 2009. The fuel component may be adjusted quarterly.

b. The maximum rate for each additional garbage container shall be **$16.81 per month, and $9.50 per month** for each additional green waste container.

2. 60-gallon container service (grandfathered customers) –

a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$18.97 per month**. A fuel component of $0.93 per month is included in the maximum rate for the quarter beginning October 1, 2009 and ending December 31, 2009. The fuel component may be adjusted quarterly.

b. The maximum rate for each additional 60-gallon garbage container shall be **$16.38 per month.**

3. Fuel Component adjustments - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*
Maximum Monthly Rates

Container Size	Regular Container Maximum Rates NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 41.48	$ 72.47	$ 103.43	$ 134.40	$ 165.38	$ 196.36
2 CY	$ 72.47	$ 134.40	$ 196.36	$ 258.31	$ 320.25	$ 382.19
3 CY	$103.43	$ 196.36	$ 289.28	$ 382.19	$ 475.13	$ 568.04
4 CY	$134.40	$ 258.31	$ 382.19	$ 506.10	$ 629.99	$ 753.89
5 CY	$165.38	$ 320.25	$ 475.13	$ 629.99	$ 787.87	$ 939.74
6 CY	$196.36	$ 382.19	$ 568.04	$ 753.89	$ 939.74	$1,125.59

FORK Participants Container Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 54.35	$ 100.80	$ 147.27	$ 193.73	$ 240.19	$ 286.64
3 CY	$ 77.57	$ 147.27	$ 216.96	$ 286.64	$ 356.35	$ 426.03
4 CY	$100.80	$ 193.73	$ 286.64	$ 379.58	$ 472.49	$ 565.42
5 CY	$124.04	$ 240.19	$ 356.35	$ 472.49	$ 590.90	$ 704.81
6 CY	$147.27	$ 286.64	$ 426.03	$ 565.42	$ 704.81	$ 844.19
90-gallon	$ 22.59	$ 45.18	$ 67.77	$ 90.36	$ 112.95	$ 135.54

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.81 per cubic yard per month ($0.19 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning October 1, 2009 and ending December 31, 2009. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. Pick up charge - $210.95 per pick up
2. Rental - $0.85 per day up to 7 day maximum rental
- $3.00 per day for boxes kept 7 or more days without servicing
- $10.00 per day for boxes kept 21 or more days without servicing

3. Disposal charge - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 per ton will be added to the disposal charges.

COMPACTORS

Front Loader Type:

Compactor Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$310.29	$ 589.08	$ 867.84	$1,146.57	$1,425.39	$1,704.12
4 CY	$403.20	$ 774.93	$1,146.57	$1,518.30	$1,889.97	$2,261.67
6 CY	$589.08	$1,146.57	$1,704.12	$2,261.67	$2,819.22	$3,376.77

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.40 per ton

EXTRA PICKUPS

1. Standard containers or equivalent	$3.50 plus $1.38/container
2. Detachable containers	$12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee, a $0.15 per month residential litter abatement fee, and a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-111

A RESOLUTION ACCEPTING THE WORK BY MID CAL PIPELINES, INC. FOR THE "DOWNSTREAM IMPROVEMENTS YOSEMITE BOULEVARD (SR132) WATER LINE INSTALLATION: DRY CREEK TO SO. SANTA ROSA PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $201,085.17

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Downstream Improvements Yosemite Boulevard (SR132) Water Line Installation: Dry Creek to So. Santa Rosa Project has been completed by Mid-Cal Pipelines & Utilities, Inc. in accordance with the contract agreement dated July 7, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Downstream Improvements Yosemite Boulevard (SR132) Water Line Installation: Dry Creek to So. Santa Rosa Project" is hereby accepted as complete from said contractor Mid-Cal Pipelines & Utilities, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $201,085.17 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-112

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH NOLTE ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE TIER 2, WEST TANK 12 AND PUMP STATION PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $129,641.89, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, the City of Modesto has determined that its existing water system needs additional storage and distribution systems, and

WHEREAS, these improvements include the construction of Tier 2, West Tank 12 and Pump Station, and

WHEREAS, the City Council, on November 5, 2008, by Resolution 2008-622, approved an Agreement with Nolte Associates, Inc. for Construction Management Services for the Tier 2, West Tank 12 and Pump Station project, and

WHEREAS, the City has identified additional scope and services necessary to complete the Tier 2, West Tank 12 and Pump Station project, and

WHEREAS, Nolte Associates has submitted a revised scope of services and fee proposal to complete the Tier 2, West Tank 12 and Pump Station,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with Nolte Associates for Construction Management Services of the Tier 2, West Tank 12 and Pump Station in the not-to-exceed amount of $129,641.89,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-113

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "NINTH STREET AND L STREET SANITARY SEWER REHABILITATION," ACCEPTING THE BID, AND APPROVING A CONTRACT WITH MID CAL PIPELINE & UTILITIES, INC. IN THE AMOUNT OF $42,240, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Ninth Street and L Street Sanitary Sewer Rehabilitation" project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the "Ninth Street and L Street Sanitary Sewer Rehabilitation" project were opened at 11:00 a.m. on March 2, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $42,240 received from Mid Cal Pipeline & Utilities, Inc., be accepted as the lowest responsible bid and the contract be awarded to Mid Cal Pipeline & Utilities, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Ninth Street and L Street Sanitary Sewer Rehabilitation" project, accepts the bid of Mid Cal Pipeline & Utilities, Inc. in the amount of $42,240, and awards Mid Cal Pipeline & Utilities, Inc. the contract for the "Ninth Street and L Street Sanitary Sewer Rehabilitation" project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-114

RESOLUTION APPROVING A TWO-PHASED APPROACH TO THE PROJECT KNOWN AS "ARCHWAY COMMONS" AND REAFFIRMING THE CITY OF MODESTO'S COMMITMENT OF FINANCIAL ASSISTANCE IN HOME FUNDS IN AN AMOUNT NOT TO EXCEED $1,000,000 FOR THE PROPOSED PHASE ONE DEVELOPMENT OF 102 UNITS AFFORDABLE HOUSING COMPLEX

WHEREAS, on November 1, 2007, a Request for Qualifications (RFQ) was released to solicit proposals for either the development of new construction or the rehabilitation of existing market rate housing to be converted to affordable units for low income households, and

WHEREAS, the Citizen's Housing & Community Development Committee (CH&CDC) review subcommittee met on June 17, 2009, to review the Archway Commons project to provide affordable rental housing to a mix of household types, including single individuals, couples, households with children as well as seniors, and

WHEREAS, on July 7, 2009, the CH&CDC recommended the allocation of $1,000,000 for the development of this project with 11 out of the 150 units as HOME units, the investment per HOME unit is $90,909, and

WHEREAS, the City and Redevelopment Agency (Agency) entered into a Disposition and Development Agreement ("Existing DDA"), dated June 2, 2009, with EAH Inc. ("Developer") providing an option for the Developer to either purchase or ground lease from the Agency certain property ("Site") for the development of a 150-unit affordable housing project (the "Housing Project", and

WHEREAS, on August 11, 2009, the City and Agency approved an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that

the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in light of certain conditions and facts, it has been determined that the amount of federal and state tax credits available to the Developer for this project is insufficient to fully fund the project as originally envisioned, and

WHEREAS, in order to make the project financially feasible, the Developer has approached the City and Agency with a request to phase the 150-unit affordable housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, it is in the City's best interest to enhance the viability of the Housing Project through the approval of a phased approach,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. The City approves a two-phased approach to the Project known as "Archway Commons" with 102 units in Phase I and 48 units in Phase II.

2. The City reaffirms its commitment of financial support for the Project and hereby authorizes the use of all previously committed HOME funds for Phase I.

3. The City further commits to additional consideration of the Phase II viability after the outcome of the first tax credit funding cycle is known.

BE IT FURTHER RESOLVED that the Council hereby authorizes and directs the City Manager, or his designee, to undertake such actions and execute such documents as are necessary to carry out the provisions of this resolution and to complete the obligations of City under the Amended DDA on behalf of the Agency, including without limitation the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Marsh, who moved its adoption, which motion is being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-115

RESOLUTION APPROVING A TWO-PHASED APPROACH TO THE PROJECT KNOWN AS "ARCHWAY COMMONS" AND REAFFIRMING THE REDEVELOPMENT AGENCY'S COMMITMENT OF $6,749,000 IN AFFORDABLE HOUSING SET-ASIDE FUNDS TO THE FIRST PHASE OF THE PROJECT WITH 102 UNITS WITH FURTHER CONSIDERATION OF THE SECOND PHASE TO OCCUR AFTER THE AWARD OF STATE TAX CREDITS FROM THE FIRST FUNDING CYCLE

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the "Redevelopment Project"), and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project, and

WHEREAS, on April 28, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing apartment complex, also referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH, Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project, and

WHEREAS, a Purchase Agreement was approved on June 2, 2009, by Resolution No. 13-2009, for the acquisition of the fourth (4th) and final parcel needed for the Housing Project, and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and closed escrow on the fourth parcel on July 1, 2009, and

WHEREAS, the Agency previously entered into a Disposition and Development Agreement ("Existing DDA"), dated June 2, 2009, with Developer providing an option for the Developer to either purchase or ground lease from the Agency the Site for the development of a 150-unit affordable Housing Project, and

WHEREAS, on August 11, 2009, the Agency approved an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in light of certain conditions and facts, it has been determined that the amount of federal and state tax credits available to the Developer for this Housing Project is insufficient to fully fund the project as originally envisioned, and

WHEREAS, in order to make the Housing Project financially feasible, the Developer has approached the Agency with a request to phase the 150-unit affordable

housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, it is in the Agency's best interest to enhance the viability of the Housing Project through the approval of a phased approach,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto as follows:

1. The City Council agrees to a two-phased approach to the Housing Project with 102 units in Phase I and 48 units in Phase II.

2. The City Council reasserts its commitment of financial support for the Housing Project and hereby authorizes the use of all commitment funds for Phase I.

3. The City Council further commits to additional consideration of the Phase II viability after the outcome of the first tax credit funding cycle is known.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are authorized to undertake such actions and execute such documents as are necessary to carry out the provisions of this Resolution and to complete the obligations of the Agency under the Amended DDA on behalf of the Agency, including without limitation, the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Marsh, who moved its adoption, which motion is being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-116

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PUMP STATION FOR WELL 63 AT MILDRED PERKINS PARK PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH ROSS F. CARROLL, INC. IN THE AMOUNT OF $709,380 FOR THE PUMP STATION FOR WELL 63 AT MILDRED PERKINS PARK PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pump Station For Well 63 At Mildred Perkins Park project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pump Station For Well 63 At Mildred Perkins Park project were opened at 11:00 a.m. on February 23, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $709,380, received from Ross F. Carroll, Inc. be accepted as the lowest responsible bid and the contract be awarded to Ross F. Carroll, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Pump Station For Well 63 At Mildred Perkins Park project, accepts the bid of Ross F. Carroll, Inc. in the amount of $709,380, and awards Ross F. Carroll, Inc. the contract for the Pump Station For Well 63 At Mildred Perkins Park project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-117

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (EA/PW 2006-25) AND A MITIGATION MONITORING AND REPORTING PROGRAM DATED AUGUST 2006 FOR THE PROJECT TITLED, "PUMP STATION FOR WELL 63 AT MILDRED PERKINS PARK"

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 Mildred Perkins Park Well Project consists of a new drinking water well site 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 a well site located along the eastern boundary of Mildred Perkins Park, adjacent to Mildred Perkins Elementary School, near the southeast corner of Snyder Avenue and Honey Creek Road, and

WHEREAS, Pacific Municipal Consultants (PMC), under contract with the City, prepared an Initial Study and Mitigated Negative Declaration (EA/PW 2006-25) (SCH #2006092127) for the Mildred Perkins Park Well Project and said Initial Study and Mitigated Negative Declaration identified less then significant impacts from the proposed Project relating to water, air quality, transportation and circulation, biological resources, energy and mineral resources, hazardous materials, generation of noise, utilities and service system demands, and recreation, and

WHEREAS, pursuant to CEQA Section 15070, the City agreed to incorporate feasible mitigation measures into the proposed Mildred Perkins Park Well 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 November 11, 2006 and ended on December 11, 2006, and

WHEREAS, the City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration, 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 Mildred Perkins Park Well 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 #2006092127) 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 #2006092127) provides the substantial evidence to support findings 1 through 7, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration (EA/PW 2006-25), a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Utility Planning and Projects 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 Utility Planning & Projects Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Director of Utility Planning & Projects is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-118

RESOLUTION APPROVING A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY AND APPROVING THE ISSUANCE OF REVENUE BONDS BY THE AUTHORITY FOR THE PURPOSE OF FINANCING OR REFINANCING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN FACILITIES FOR THE BENEFIT OF PALETERIA LA MICHOACANA

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness, and

WHEREAS, the City of Modesto (the "City"), has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefore by the Authority, and

WHEREAS, there is now before this City Council (the "City Council") the form of the Agreement, and

WHEREAS, the Agreement has been filed with the City, and the members of the City Council, with the assistance of its staff, have reviewed said document, and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the construction of capital projects, and

WHEREAS, Paleteria La Michoacana, a California corporation (the "Borrower") has requested that the Authority issue and sell revenue bonds in the maximum principal amount of $3,000,000 (the "Bonds") for the purpose of making a loan to the Borrower, to enable the Borrower to finance or refinance the costs of the design, acquisition and installation of an industrial freezer project relating to the manufacture of ice cream products, all to be located in the City at 2068 Lapham Drive (the "Project"), and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that an "applicable elected representative" of the governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, hold a public hearing on the issuance of the Bonds and approve the issuance of the Bonds following such hearing, and

WHEREAS, the Authority has determined that the City Council is an "applicable elected representative" for purposes of holding such hearing, and

WHEREAS, the Authority has requested that the City 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 4 of the Agreement, and

WHEREAS, notice of such public hearing has been duly given as required by the Code, and this City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the

financing or refinancing of the Project and the Authority's issuance of the Bonds therefore, and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the issuance of the Bonds by the Authority for the aforesaid purposes, NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

Section 1. The Agreement is hereby approved and the Mayor, the City Manager, or designee thereof, is hereby authorized and directed to execute said document, and the City Clerk or the City Clerk's designee is hereby authorized and directed to attest thereto.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds (a) by the "applicable elected representative" of the governmental unit having jurisdiction over the area in which the Project is or is to be located in accordance with Section 147(f) of the Code and (b) by the City Council in accordance with Section 4 of the Agreement.

Section 3. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 4. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the

acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 5. The executing officers, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 6. The City Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Harriet M. Welch, Esq.
Squire, Sanders & Dempsey LLP.
555 South Flower St., Suite 3100
Los Angeles, CA 90071-2300

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-119

RESOLUTION APPROVING A SECOND AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-2010

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, adopted the Annual Action Plan for FY 2009-2010, and

WHEREAS, this is a second substantial amendment to the Annual Action Plan, and

WHEREAS, any substantial amendments to the Annual Action Plan require City Council approval, and

WHEREAS, this amendment was made available for public review and comment beginning February 22, 2010, and closing with a City Council public hearing on March 23, 2010, and

WHEREAS, any remaining funds from the NSP1 Acquisition and Rehabilitation Program for the scattered sites activity, currently estimated at $45,000, will be reallocated to the Acquisition and Rehabilitation Program for targeted sites, and

WHEREAS, reallocating $400,000 in Revolving Loan Funds to the Empire Street capital improvement project will help to fund the installation of sidewalks, curbs, and gutters and the associated pavement work from Monterey Avenue to Hillside Drive,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to the Department of Housing & Urban Development Annual Action Plan for Fiscal Year 2009-2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-120

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED CHANGES TO THE HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, adopted the Annual Action Plan for FY 2009-2010, and

WHEREAS, this is a second substantial amendment to the Annual Action Plan, and

WHEREAS, any substantial amendments to the Annual Action Plan require City Council approval, and

WHEREAS, this second amendment will reallocate any remaining funds from the NSP1 Acquisition and Rehabilitation Program for the scattered sites activity, currently estimated at $45,000, to the Acquisition and Rehabilitation Program for targeted sites, and

WHEREAS, this second amendment will also reallocate $400,000 in Revolving Loan Funds to the Empire Street capital improvement project to help fund the installation of sidewalks, curbs, and gutters and the associated pavement work from Monterey Avenue to Hillside Drive,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009-2010 Annual Operating and Capital Improvement budgets are hereby amended as follows and as detailed in **Exhibits 1 and 2**:

1. Reallocate any remaining funds from the NSP1 Acquisition and Rehabilitation Program for the scattered sites activity, currently estimated at $45,000, to the Acquisition and Rehabilitation program for targeted sites.

2. Reallocate $400,000 in Revolving Loan Funds to the Empire Street capital improvement project to help fund the installation of sidewalks, curbs, and gutters and the associated pavement work from Monterey Avenue to Hillside Drive.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT A

Contact Person: Jody Christiansen
Telephone No.: 342-4707
Department: PRN

Council Action Date: 03/23/2010
Resolution Number: 2010-

Adjustment to FY: MY

Fund Title: NSP1

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN					
FROM					
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
MY-1131-320-3284-049		$2,390,000	($45,000)	$2,345,000	Scattered focus areas
TO					
MY-1131-320-3283-049		$2,390,000	$45,000	$2,435,000	Target focus areas

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

Reallocate $45,000 of the acquisition/rehab funds in scattered site locations to the targeted areas.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____

BY_____ **DATE**_____

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT B

Contact Person: Jody Christiansen
Telephone No.: 342-4707
Department: PRN

Fund Title: NRS

Council Action Date: 03/23/2010
Resolution Number: 2010-

Adjustment to FY: MY

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN					
FROM					
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
1150-320-3266-0495		$938,526	($400,000)	$538,526	RLF Rehab Program
TO					
MY-1131-320-3283-049		$300,000	$400,000	$700,000	ADA Curb Ramps

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

Reallocate $400,000 of the revolving loan funds to the Empire Street project as part of the Neighborhood Revitalization Strategy.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____

BY_____ **DATE**_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-121

RESOLUTION AUTHORIZING THE HOUSING REHABILITATION LOAN COMMITTEE TO APPROVE GRANTS UP TO $25,000 FOR PROPERTY REHABILITATION UNDER THE NEIGHBORHOOD STABILIZATION PROGRAM 1 PROPERTY ACQUISTION AND REHABILITATION ACTIVITY, AND AMENDING THE LOAN TERMS TO A FULLY PAYABLE LOAN NOT TO EXCEED $100,000 WITH A GRANT FOR REHABILITATION UP TO $25,000

WHEREAS, on May 26, 2009, the City Council, by Resolution No 2009-220, approved guidelines for the Housing and Urban Development (HUD) funded Neighborhood Stabilization Program (NSP) in order to stabilize neighborhoods, and

WHEREAS, these guidelines authorized the Housing Rehabilitation Loan Committee (HRLC) to approve Homebuyer Assistance Program loans under the NSP program for up to $125,000 per household, and

WHEREAS, under the existing program applicants have not been able to secure first mortgage loans because of concerns regarding the loan to value ratio when rehabilitation is included, and

WHEREAS, if the rehabilitation portion of the loan is granted, the homebuyer's assistance program loan would change to a fully payable loan instead of forgiving a portion of the loan after the expiration of the 15 year affordability covenant, and

WHEREAS, the consequence of this action will decrease the maximum loan amount for the Homebuyer's Assistance Loan Program to $100,000 (from the original $125,000) with a grant for rehabilitation up to $25,000, and

WHEREAS, this action would keep the loan to value ratio at a manageable level,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Housing Rehabilitation Loan Committee to approve grants

up to $25,000 for property rehabilitation under the Neighborhood Stabilization program 1 Property Acquisition and Rehabilitation Activity, and amending the loan terms to a fully payable loan not to exceed $100,000 with a grant for rehabilitation up to $25,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-122

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) REQUESTING $100,000 IN COMMUNITY-BASED TRANSPORTATION PLANNING GRANT FUNDS

WHEREAS, at its regular meeting of January 12, 2010, the Council of the City of Modesto approved a motion supporting high-speed and regional passenger rail in downtown Modesto, and directing staff to make any necessary amendments to the Urban Area General Plan, and

WHEREAS, on February 9, 2010, the City Council, by Resolution No. 2010-056, approving a Memorandum of Understanding (MOU) by and between the City of Modesto, the County of Merced, City of Merced, Merced County Association of Governments, County of Stanislaus, City of Turlock, Stanislaus Council of Governments, San Joaquin Regional Rail Commission, San Joaquin County, City of Stockton, City of Lodi, City of Manteca, San Joaquin Regional Rail Commission, San Joaquin Regional Transit District, San Joaquin Council of Governments, County of Sacramento, City of Sacramento, City of Elk Grove, City of Galt, Sacramental Regional Transit, and Sacramento Area Council of Governments for the High Speed Rail Merced-to-Sacramento Working Group, and

WHEREAS, a downtown passenger rail station location and rail alignment must be identified in coordination with the California High Speed Rail Authority and San Joaquin Regional Rail Commission and site planning must begin in order to prepare for passenger rail in downtown Modesto, and

WHEREAS, the California Department of Transportation (Caltrans) has the authority to award grants of financial assistance for transportation planning projects, and

WHEREAS, the grant for Caltrans local assistance funds will impose certain obligations on the City of Modesto, such as invoicing, quarterly reporting, and timely completion, and

WHEREAS, a public hearing was held on March 23, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, at which submittal of a grant application was considered by the Council of the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of an application on behalf of the City of Modesto to the California Department of Transportation for Community-Based Transportation Planning Grant funds in the amount of $100,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the quarterly reports and other documents Caltrans requires for awarding a local assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with Caltrans on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-123

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "STREET IMPROVEMENTS ON THE WEST SIDE OF CONANT AVENUE FROM RUMBLE ROAD TO EICHER AVENUE;" ACCEPTING THE BID; APPROVING A CONSTRUCTION CONTRACT FOR THE PROJECT WITH A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION FOR $231,770.40; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, Traffic Engineering staff applied for, and received, Safe Routes to School grant (SR2S) funding for street improvements on the west side of Conant Avenue from Rumble Road to Eicher Avenue, and

WHEREAS, the construction will include the installation of curb, gutter, sidewalk, ADA curb ramps, streetlights, and the removal, replacement, and installation of new asphalt concrete paving, base sub-base, and

WHEREAS, bids for this project were opened on February 23, 2010, and

WHEREAS, A. Teichert & Son, Inc., dba Teichert Construction, was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Street Improvements on the West Side of Conant Avenue from Rumble Road to Eicher Avenue;" accepts the bid; and approves a construction contract for the project with A. Teichert & Son, Inc., dba Teichert Construction, for $231,770.40.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of March, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-124

RESOLUTION APPROVING THE APPOINTMENT OF PAUL BAXTER, JOAN CLENDENIN, CARMEN MORAD, SUSAN NOVAK, HUGH ROSE III, BRIAN RANDO, DAVID B. RYAN, AND ALTERNATES PHILIP S. ANSELMO, JR. AND DIEDRE BUSH WEST TO THE CITY OF MODESTO RUN-OFF ELECTION AD HOC 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 held a meeting on March 8, 2010, and appointed the following individuals to the City of Modesto Run-Off Election Ad Hoc Committee, including two alternates:

Paul Baxter
Joan Clendenin
Carmen Morad
Susan Novak
Hugh Rose, III
Brian Rando
David B. Ryan
Alternates: Philip S. Anselmo, Jr. and Diedre Bush West

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Paul Baxter, Joan Clendenin, Carmen Morad, Susan Novak, Hugh Rose III, Brian Rando, David B. Ryan, and alternates Philip S. Anselmo, Jr. and Diedre Bush West are hereby appointed to the City of Modesto Run-Off Election Ad Hoc Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this Resolution to the appointed members of the City of Modesto Run-Off Election Ad Hoc Committee.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-143

A RESOLUTION APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO HIGH SCHOOL DISTRICT OF STANISLAUS COUNTY FOR THE ACQUISITION OF A PORTION OF THE PROPERTY LOCATED AT 1717 SYLVAN AVENUE (APN 052-013-022), IN THE AMOUNT OF $11,200.00; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Sylvan Avenue to include a westbound right turn lane at the northeast corner of Sylvan Avenue and Boyce Lane, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane at 1717 Sylvan Avenue (APN 052-013-022) owned by Modesto High School District of Stanislaus County, and

WHEREAS, the project as planned requires the acquisition of the property interests owned by Modesto High School District of Stanislaus County, and

WHEREAS, on November 3, 2008, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, the project is consistent and is in conformance with the General Plan Master E.I.R., and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City requires a Purchase Agreement prior to construction on the subject property, and

WHEREAS, the City Council directed staff to present a Purchase Agreement to the landowner to construct improvements on the subject property as required for the project, and

WHEREAS, staff recommends the City proceed with the purchase of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase Agreement between City of Modesto and Modesto High School of Stanislaus County for a portion of the property located at 1717 Sylvan Avenue (APN 052-013-022), in the amount of $11,200.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents required to close escrow for the Congestion Mitigation Air Quality (CMAQ) Management CML 5050(149) – Right Turn Lanes (4) Intersections Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-144

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CERTIFICATE OF ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUSITION OF A PORTION OF PROPERTY LOCATED AT 1717 SYLVAN AVENUE (APN: 052-013-022), OWNED BY MODESTO HIGH SCHOOL DISTRICT OF STANISLAUS TO BE PURCHASED BY THE CITY OF MODESTO FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) – RIGHT TURN LANES (4) INTERSECTIONS PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion (APN 052-013-022) for the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute a Certificate of Acceptance Form for the Grant Deed for the acquisition of a portion of property located as 1717 Sylvan Avenue (APN 052-013-022), owned by Modesto High School District of Stanislaus to be purchased by the City of Modesto for the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-145

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE CONSTRUCTION AND MAINTENANCE OF APPROXIMATELY 12,006 SQ.FT OF STREET IMPROVEMENTS WITHIN MODESTO IRRIGATION DISTRICT PROPERTY AT THE SOUTHWEST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (167) – Construct Right Turn Lane Eastbound (EB) Briggsmore Avenue to Southbound (SB) McHenry Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a eastbound right turn lane at the southwest corner of Briggsmore Avenue and McHenry Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane on property owned by Modesto Irrigation District, and

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, Caltrans approved Categorical Exemption/Categorical Exclusion Document on March 25th, 2010, and

WHEREAS, the project is consistent and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, Modesto Irrigation District requires a Common Use Agreement prior to allowing street improvements on subject property, and

WHEREAS, the Right Turn Lane EB Briggsmore Avenue to SB McHenry Avenue Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Consenting to Common Use between the City of Modesto and Modesto Irrigation District for the construction and maintenance of approximately 12,006 sq.ft. of street improvements within Modesto Irrigation District property at the southwest corner of McHenry Avenue and Briggsmore Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-146

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE INSTALLATION AND MAINTENANCE OF APPROXIMATELY 4,367 SQ. FT. OF LANDSCAPE IMPROVEMENTS WITHIN MODESTO IRRIGATION DISTRICT PROPERTY AT THE SOUTHWEST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (167) – Construct Right Turn Lane Eastbound (EB) Briggsmore Avenue to Southbound (SB) McHenry Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a eastbound right turn lane at the southwest corner of Briggsmore Avenue and McHenry Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane on property owned by Modesto Irrigation District, and

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, Caltrans approved Categorical Exemption/Categorical Exclusion Document on March 25th, 2010, and

WHEREAS, the project is consistent and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the Modesto Irrigation District requires a License Agreement prior to allowing landscape installation and maintenance on subject property, and

WHEREAS, the project will cause little if no landscape maintenance cost to the City due to the installation of drought tolerant landscape improvements, and

WHEREAS, the Right Turn Lane EB Briggsmore Avenue to SB McHenry Avenue Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the installation and maintenance of approximately 4,367 sq. ft. of landscape improvements within Modesto irrigation District property at the southwest corner of McHenry Avenue and Briggsmore Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-147

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE CONSTRUCTION AND MAINTENANCE OF APPROXIMATELY 6,744 SQ.FT OF STREET IMPROVEMENTS WITHIN MODESTO IRRIGATION DISTRICT PROPERTY AT THE SOUTHEAST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (168) – Right Turn Lanes Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project involves the expansion of McHenry Avenue and Briggsmore Avenue to include a northbound right turn lane at the southeast corner of McHenry Avenue and Briggsmore Avenue, and

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for a right turn lane on property owned by Modesto Irrigation District, and

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, Caltrans approved a Categorical Exemption/Categorical Exclusion Document on March 25th, 2010, and

WHEREAS, the project is consistent and is in conformance to the General Plan Master EIR and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the Modesto Irrigation District requires a Common Use Agreement prior to allowing construction on subject property, and

WHEREAS, the Right Turn Lanes NB McHenry Avenue to EB Briggsmore Avenue Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the City of Modesto and Modesto Irrigation District for the construction and maintenance of approximately 6,744 sq. ft. of street improvements within Modesto Irrigation District property at the southeast corner of McHenry Avenue and Briggsmore Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-148

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) SERVICE TRUCKS WITH AIR COMPRESSORS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO HANSEL FORD, SANTA ROSA, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO EXECUTE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $260,761

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10, through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the two (2) service trucks with air compressors are replacements for the Public Works Department, Water Division, through the Fleet Services Division, and were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the California Air Resources Board (CARB) requires a progressive replacement program that removes older diesel trucks from service. These trucks fall under the City's compliance program approved by the CARB and have reached the end of their useful life. The current trucks do not meet CARB emission requirements and must be replaced, and

WHEREAS, The Purchasing Division issued RFB No. 0910-10, service trucks with air compressors to nineteen (19) prospective bidders, none of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nineteen (19) prospective bidders, four (4) companies chose to respond, none of which were local vendors. All companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of two (2) service trucks with air compressors to Hansel Ford, Santa Rosa, CA, for the total estimated cost of $260,761, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of two (2) service trucks with air compressors for the Public Works Department, Water Division, through Fleet Services Division, to Hansel Ford, Santa Rosa, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-5515 and 7210-480-5814-5516,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of two (2) service trucks with air compressors for the Public Works Department, Water Division, through the Fleet Services Division, to Hansel Ford, Santa Rosa, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $260,761.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-149

RESOLUTION APPROVING AN AMENDMENT TO COST SHARING AGREEMENT WITH DEL PUERTO WATER DISTRICT FOR EXPENSES RELATED TO STUDYING THE FEASIBILITY OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM IN THE AMOUNT OF $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on January 12, 2010, the City Council, by Resolution 2010-016, approved a Cost Sharing Agreement with the Del Puerto Water District (DPWD) to jointly fund 50% of a Regional Recycled Water Delivery System Feasibility Study (feasibility study), and

WHEREAS, an appropriation of $25,000 from the Wastewater Fund Reserves for the City's portion of the feasibility study was approved by Resolution 2010-017, and

WHEREAS, the recommendation to City Council was based on seeking the remaining funding from the Bureau of Reclamation (Bureau) or other sources, and

WHEREAS, City staff and DPWD staff have prepared a Request for Proposals (RFP) to secure professional services for the feasibility study, and

WHEREAS, the proposed project has expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners and is now truly regional in scope, and

WHEREAS, the Regional Recycled Water Delivery System Project, now referred to as the North Valley Regional Recycled Water Project, has gathered interest and support to move it ahead for federal funding, and

WHEREAS, there are several requirements that are essential for obtaining federal funding for construction, and

WHEREAS, two key requirements are: 1) feasibility study must be completed to authorize the project; and 2) the project partners need to execute a Memorandum of Understanding (MOU) to designate a lead agency for receiving the funding and eventually constructing the project, and

WHEREAS, also, the Bureau of Reclamation (Bureau) funding criteria for recycled water includes a section that rates recycled water projects based on the project proponent's formation of a "collaborative partnership" with the other entities and the project's implementation of a regional planning effort, and

WHEREAS, the proposed MOU, which is being brought as a separate Council action, will help demonstrate that the North Valley Regional Recycled Water Project meets these ranking criteria, and

WHEREAS, there is legislative interest in moving this project ahead as quickly as possible; however, the feasibility study must be underway and an MOU executed to start the process, and

WHEREAS, City and DPWD staff met with Bureau staff from the Mid-Pacific Region to discuss shared funding for the feasibility study, and submitted a formal request to the Bureau for a cooperative agreement to provide financial assistance, and

WHEREAS, the Bureau was attempting to provide funds through the current budget appropriation, even though the feasibility study was not budgeted during the current fiscal year, and it is doubtful that the City and DPWD can rely on funding from the Bureau in the near term, and

WHEREAS, the feasibility study was initially anticipated to cost $100,000, and

WHEREAS, based on the Bureau's review of the RFP, the estimate has been revised to $150,000, and

WHEREAS, staff recommended funding the remainder of the cost for the feasibility study in the amount of $100,000, with possible reimbursement from the Bureau, and

WHEREAS, it is necessary to amend the Cost Sharing Agreement with DPWD to acknowledge that both parties understand and agree that the City of Modesto will pay the additional $100,000 to fund the remainder of the feasibility study, and to memorialize that any reimbursement for the cost of the feasibility study will be returned to the City of Modesto first, and

WHEREAS, the MOU for the project partners has been drafted and in consideration for the City of Modesto advancing the remaining funds through the Amendment to the Cost Sharing Agreement, the MOU will incorporate a cost-sharing provision that will allow the City to recover its share of the costs for the feasibility study should the Bureau fail to fund its share, and

WHEREAS, Bureau staff recommends proceeding with the feasibility study using local funding to avoid delays to this critical path element of the project schedule,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Cost Sharing Agreement with Del Puerto Water District for expenses related to studying the feasibility of a Regional Recycled Water Delivery System Feasibility Study in the amount of $100,000.

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 April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-150

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE REMAINING COST OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM FEASIBILITY STUDY

WHEREAS, certain budgetary transactions are necessary in the amount of $100,000, in order to fund the Amendment to Cost Sharing Agreement with Del Puerto Water District for expenses related to studying the feasibility of a Regional Recycled Water Delivery System, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein, and

WHEREAS, City staff requests amending the Fiscal Year 2009-2010 Capital Improvement Program budget by transferring 1) $65,000 from Operating Org. (6210-440-5201-0235), and 2) $35,000 from Wastewater Reserves (6210-800-8000-8003) into CIP Account (6210-430-B119-6080) to fund the remainder of a Regional Recycled Water Delivery System Feasibility Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget in order to fund the City's share of a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for the development of a Regional Recycled Water Delivery System Feasibility Study by transferring 1) $65,000 from Operating Org. (6210-440-5201-0235), and 2) $35,000 from Wastewater Reserves (6210-800-8000-8003) into CIP Account (6210-430-B119-6080).

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FUND: WASTEWATER FUND

EXPENDITURES:

		INCREASE/DECREASE
Capital Improvement Services	6210-440-5201-0235	($65,000)
Wastewater Reserves	6210-800-8000-8003	($35,000)
Del Puerto Reg WW Feas Study	6210-430-B119-6080	$100,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-151

A RESOLUTION APPROVING A NO-COST SECOND AMENDMENT TO AGREEMENT FOR THE 2005 URBAN WATER MANAGEMENT PLAN WITH RMC WATER AND ENVIRONMENT TO DEVELOP A WATER CONSERVATION PLAN IN AN AMOUNT NOT TO EXCEED $28,200 FOR THE REVISED SCOPE OF SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, on July 12, 2005, by Resolution No. 2005-374, the City Council approved an agreement with RMC of Walnut Creek, for professional services to prepare the City's 2005 Urban Water Management Plan (UWMP), and

WHEREAS, on November 8, 2006, by Resolution 2006-704, the Council approved an amendment to this Agreement for additional tasks to complete the UWMP, and

WHEREAS, in April 2007, the Council adopted the UWMP and the State of California (State) subsequently accepted it as complete, and

WHEREAS, related to the UWMP, and in order to be eligible to receive State Revolving Funds (SRF) for certain types of projects, the City, as an urban water supplier, needs to have an adopted "Water Conservation Plan" that identifies specific conservation measures and describes how they are being implemented, and

WHEREAS, even though the City has a conservation program and drought contingency plan, in their current form, they do not meet all of the requirements of the recently amended Urban Water Management Planning Act via the passage of State Assembly Bill 1420 (AB 1420), and

WHEREAS, through this proposed second amendment to the existing Agreement, RMC will develop a Water Conservation Plan that contains all of the elements needed to

meet the mandates of the new legislation and position the City to be eligible for future State Revolving Funds (SRF) grants, and

WHEREAS, this second amendment is recommended to cover the following revised tasks that are not included in the original scope: 1) Develop Water Conservation Policy; 2) BMP Program; 3) Conservation Plan Preparation; 4) AB1420 Compliance; and 5) Project Management and QA/QC, and

WHEREAS, the total estimated cost to complete these revised tasks is $28,200; however, this cost is covered by existing funds already encumbered under the current agreement, and

WHEREAS, initial cost savings resulted from a decision not to complete an optional task in the original agreement; therefore, there is no additional fiscal impact to fund the revised tasks to develop a Water Conservation Plan since available funds already exist under the current Agreement, and

WHEREAS, City staff recommends approving a second amendment to agreement with RMC for the revised work related to the UWMP, and

WHEREAS, City staff recommends approving a second amendment to agreement with RMC as the City does not have the staffing level to develop a Water Conservation Plan, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a no-cost second amendment to agreement with RMC Water and Environment for the 2005 Urban Water Management Plan in an amount not to exceed $28,200 for the revised scope of services not included in the original agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-152

A RESOLUTION APPROVING AN AGREEMENT WITH NORTHSTAR ENGINEERING GROUP, INC. (NORTHSTAR) FOR A PRELIMINARY DESIGN REPORT FOR INDUSTRIAL TANK 13 AND PUMP STATION IN AN AMOUNT NOT TO EXCEED $222,890.25 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,289.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $245,179.25, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing 35% design services for the Industrial Tank 13 and Pump Station project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the Industrial Tank 13 and Pump Station are part of the City's water system improvements needed to fully integrate the water system with the Phase Two expansion of the Modesto Regional Water Treatment Plant (MRWTP), and

WHEREAS, the project consists of one 4 million gallon potable water storage tank and one 12 million gallon per day booster pumping station located within a City owned 5-acre vacant parcel between 415 and 555 Codoni Avenue (assessors parcel number 009-018-054), and

WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the preliminary design report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering

Services for Capital Projects, approval was granted from the Director of Utility Planning & Projects to issue a Request for Qualifications (RFQ), and

WHEREAS, the Selection Committee, consisting of two UP&P Engineering staff and one Public Works Maintenance staff person, reviewed all 15 of the submitted Statement of Qualifications and narrowed the selection to five consultants, and

WHEREAS, all five consultants submitted proposals and subsequently interviewed with the Selection Committee, and

WHEREAS, following the consultant interviews, the Selection Committee determined that NorthStar is the most qualified consultant to provide preliminary design services for this project and prepare a PDR, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with NorthStar Engineer Group, Inc. as the City does not have the staffing level to complete the Preliminary Design Report for the Industrial Tank 13 and Pump Station project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Preliminary Design Report for the Industrial Tank 13 and Pump Station with NorthStar Engineer Group, Inc. in an amount not to exceed $222,890.25 for the identified scope of services, plus $22,289.00 for additional services (if needed), for a maximum total amount of $245,179.25 for the project titled, "Industrial Tank 13 and Pump Station".

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-153

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CITIES OF MODESTO, CERES, AND TURLOCK, STANISLAUS COUNTY, AND THE DEL PUERTO WATER DISTRICT FOR THE NORTH VALLEY REGIONAL RECYCLED WATER PROJECT COLLABORATIVE PARTNERSHIP, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU

WHEREAS, on January 12, 2010, the City Council, by Resolution No. 2010-016, approved moving forward with the Regional Water Delivery System Feasibility Study (feasibility study) in partnership with the Del Puerto Water District (DPWD), and

WHEREAS, subsequently, the proposed project has expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners and is now truly regional in scope, and

WHEREAS, the Regional Recycled Water Delivery System Project, now referred to as the North Valley Regional Recycled Water Project, has gathered the legislative interest and support to have it considered for federal funding; however the project must be authorized to qualify for the federal appropriation process, and

WHEREAS, there are several requirements that are essential for obtaining federal funding for construction, and

WHEREAS, two key requirements are: 1) feasibility study must be completed to authorize the project; and 2) the project partners need to execute a Memorandum of Understanding (MOU) to designate a lead agency for receiving the funding and eventually constructing the project, and

WHEREAS, the Bureau of Reclamation (Bureau) funding criteria for recycled water includes a section that rates recycled water projects based on the project

proponent's formation of a "collaborative partnership" with the other entities and the project's implementation of a regional planning effort, and

WHEREAS, this proposed MOU will help demonstrate that the North Valley Regional Recycled Water Project meets these ranking criteria, and

WHEREAS, City staff and DPWD staff are moving ahead with the feasibility study and a separate request was presented to Council for an increase in funding for the study in order to account for the expanded regional aspects of the project and to avoid delays, and

WHEREAS, the North Valley Regional Recycled Water Project MOU has been prepared and the proposed participants consist of the Cities of Modesto, Ceres, and Turlock, as well as Stanislaus County, and Del Puerto Water District, and

WHEREAS, the MOU establishes a collaborative partnership between the participating agencies; provides for coordinating interagency efforts through a committee structure with representation from each participating agency; and designates an administrative agency (in this case, the City of Modesto) to enter into contracts, receive funds, and perform administrative functions on behalf of the participating agencies, and

WHEREAS, all parties have reviewed, commented, and are seeking approval from their Councils and Boards on the proposed MOU for the project partnership, and

WHEREAS, the MOU has incorporated a cost-sharing provision that will allow the City to recover its share of the costs of the feasibility study should the Bureau fail to fund its share,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding (MOU) with the Cities of

Modesto, Ceres, and Turlock, Stanislaus County, and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partnership.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-154

RESOLUTION APPROVING THE FIVE-YEAR CONSOLIDATED PLAN (2010-2015) FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT, HOME INVESTMENT PARTNERSHIP GRANT, AND EMERGENCY SHELTER GRANT FUNDS, THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE, AND THE CITIZENS' PARTICIPATION PLAN FOR THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, the U.S. Department of Housing & Urban Development (HUD) requires entitlement grantees adopt a comprehensive, long-term plan for the use of HUD funds, and

WHEREAS, the Five-Year Consolidation Plan (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, with the development of a broad policy framework, the CP addresses how the City will utilize funding from three different entitlement grants to meet the needs identified, and

WHEREAS, on February 14, 2000, the requirement that State and local entitlement jurisdictions receiving funding through the CP process should update, where appropriate, its Analysis of Impediments to Fair Housing Choice (AI) to reflect the current fair housing situation in the community, and

WHEREAS, the AI reviews a jurisdiction's laws, regulations and administrative policies, procedures and practices, as well as evaluates how those laws affect the location, availability and accessibility of housing, and

WHEREAS, the AI assesses conditions, both public and private, affecting fair housing choice for all protected classes and analyzes the availability of affordable, accessible housing in a range of unit sizes, and

WHEREAS, citizen participation is a key component of the consolidated planning process, and

WHEREAS, HUD regulations implementing the three entitlement grants require 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 community development activities, and

WHEREAS, staff has worked with citizens and service providers to complete a "Housing and Community Development Needs Survey" for the City of Modesto, and all data obtained through these surveys was used in compiling information and making recommendations for funding priorities in the CP, and

WHEREAS, staff, with guidance from the firm Bay Area Economics (BAE) organized three community meetings and one public consultation meeting to assess local needs/priorities related to community services, economic development, community facilities and infrastructure, housing and fair housing to discuss what programs/actions are working, and what gaps remain, and

WHEREAS, the draft Five-Year CP, AI and Citizens' Participation Plan were available for a 30-day public review period, beginning March 23, 2010, and closing with a City Council public hearing on April 27, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Five-Year Consolidated Plan (2010-2015) for the use of Community Development Block Grant, HOME Investment Partnership Grant, and Emergency Shelter Grant Funds, the Analysis of Impediments to Fair Housing Choice, and the Citizens' Participation Plan for the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to sign the required certifications and documents for submittal to the U.S. Department of Housing & Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-155

RESOLUTION APPROVING AN AGREEMENT BETWEEN SHELTER COVE COMMUNITY CHURCH AND THE CITY OF MODESTO TO CONSTRUCT IMPROVEMENTS AND GRANT REVOCABLE LICENSE TO PROVIDE ACCESS TO CLARATINA AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEES, TO EXECUTE THE AGREEMENT

WHEREAS, Shelter Cove Community Church, located at 4242 Coffee Road, received approval by the City Council on February 25, 2003, by Resolution No. 2003-101, for General Plan Amendment, Specific Plan Amendment and Annexation for the development of a church, and

WHEREAS, annexation of the parcel was approved by Stanislaus Local Agency Formation Commission on April 23, 2003, and

WHEREAS, Shelter Cove Community Church Final Development Plan was approved on May 2, 2005, by the Planning Commission for a church, with offices and Sunday-school classrooms, and

WHEREAS, Final Development Plan was approved with two driveways on Coffee Road, and

WHEREAS, Shelter Cove Community Church, has requested access to Claratina Avenue which is designated a Class B Expressway in the City's General Plan, and

WHEREAS, a Class B Expressway is a high volume roadway where access is controlled and limited to ensure sufficient traffic flow and overall operational viability of expressways in the community, and

WHEREAS, the proposed access to Claratina Avenue does not meet the requirements for expressway access to a private driveway as provided in the City's Expressway Access Policy, and

WHEREAS, the City's General Plan typically allows one Collector Street intersection on a Class B Expressway at ¼ to ½ mile intervals between two Arterial Streets, and

WHEREAS, the location of a Collector Street along the north side of Claratina Avenue between the Arterial Streets, Coffee Road and Oakdale Road, will be determined through the preparation of a specific plan for the Hetch Hetchy Comprehensive Planning District (CPD), and

WHEREAS, the Hetch Hetchy CPD does not have an approved specific plan to determine the location of a Collector Street intersection with Claratina Avenue, and

WHEREAS, the proposed access on Claratina Avenue is identified as an interim Collector Street located approximately ¼ mile from Coffee Road, and

WHEREAS, Shelter Cove Community Church and the City of Modesto have worked together to reach agreement on a formal Agreement to Construct Improvements and Grant Revocable License to provide access to Claratina Avenue on an interim Collector Street, and

WHEREAS, the Agreement to Construct Improvements and Grant Revocable License includes, but is not limited to, provisions addressing construction on improvements, maintenance of property, liability insurance coverage, and a closure plan, and

WHEREAS, improvements shall be constructed as shown on the Improvement Plans prepared by a registered civil engineer and approved by and on file with the City Engineer, and

WHEREAS, Shelter Cove Community Church shall cause all improvements to be designed, constructed, and dedicated to fully comply with the requirements of the General Plan, Standard Specifications, Modesto Municipal Code, the Agreement to Construct Improvements and Grant Revocable License, the Improvement Plans, and any changes or alterations in such work as may be required by the City Engineer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between Shelter Cove Community Church and the City of Modesto to Construct Improvements and Grant Revocable License to provide access to Claratina 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 27th day of April, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-156

A RESOLUTION FINDING THAT THE PROPOSED AGREEMENT TO CONSTRUCT IMPROVEMENTS AND GRANT REVOCABLE LICENSE TO PROVIDE ACCESS TO CLARATINA AVENUE 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. 200212217)

WHEREAS, on February 25, 2003, the 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) for the development of a church, and

WHEREAS, Shelter Cove Community Church Final Development Plan was approved on May 2, 2005, by the Planning Commission for a church, with offices and Sunday-school classrooms, and

WHEREAS, Final Development Plan was approved with two driveways on Coffee Road, and

WHEREAS, Shelter Cove Community Church has proposed an Agreement to Construct Improvements and Grant Revocable License to provide access to Claratina Avenue, and

WHEREAS, Section 15162 of the California Environmental Quality Act (CEQA) Guidelines states that no new environmental review will be required for a project if a Mitigated Negative Declaration has previously been prepared unless it is determined by an Initial Study that the new project may cause a project-specific significant effect on the environment that was not examined in the previous Mitigated Negative Declaration, that

the circumstances under which the project is being undertaken have changed, that new information has arisen since the Mitigated Negative Declaration was adopted, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2010-08 ("Initial Study") reviewed the proposed Agreement to Construct Improvements and Grant Revocable License to provide access to Claratina Avenue to determine if the project is within the scope of the project covered in 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

WHEREAS, the Initial Study concluded that the proposed project is within the scope of the previously prepared Mitigated Negative Declaration determining that the proposed project will not cause any project-specific significant effect on the environment that was not examined in the previous Mitigated Negative Declaration, that the circumstances under which the project is being undertaken have not changed, that new information has not arisen since the Mitigated Negative Declaration was adopted, and

WHEREAS, said matter was considered by the City Council on April 27, 2010, 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 it has reviewed and considered the Initial Study prepared for the proposed Agreement to Construct Improvements and Grant Revocable License to provide access to Claratina Avenue, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated

herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. 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) due to new significant environmental effects.

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.

BE IT FURTHER RESOLVED that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of April, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-08

City of Modesto

An Initial Study to Determine if the Proposed 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. 200212217)

Initial Study Environmental Checklist
C&ED No. 2010-08

For the proposed:

Shelter Cove Community Church - Agreement to Construct Improvement and Grant Revocable License to Provide Access to Claratina Avenue
MISC-08-001

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

March 26, 2010

City of Modesto
Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the previously adopted Mitigated Negative Declaration for General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117), adopted on February 25, 2003. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether a proposal by Shelter Cove Community Church for an Agreement to Construct Improvements and Grant Revocable License to provide access to Claratina Avenue, MISC-08-001, is "within the scope" of the Mitigated Negative Declaration (SCH No. 2002122117) When the Initial Study supports this conclusion, the City will issue a finding of conformance.

Section 15162 of the California Environmental Quality Act (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. The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Agreement to Construct Improvements and Grant Revocable License to provide access on Claratina Avenue

B. Address: 4242 Coffee Road, Modesto, CA 95357

C. Applicant: Shelter Cove Community Church

D. City Contact Person: Paul Liu, Senior Planner

Project Manager: Paul Liu
Department: Community and Economic Development Department
Phone Number: (209) 577-5282
E-mail address: pliu@modestogov.com

E. Current General Plan Designation(s): Village Residential

F. Current Zoning Classification(s): Specific Plan (SP)

G. Surrounding Land Uses:
North: Agriculture
South: Single Family Residential and vacant
East: Agriculture
West: Miniature golf course

H. Project Description: Shelter Cove Community Church, located at the northeast corner of Coffee Road and Claratina Avenue, is proposing an Agreement to Construct Improvements and Grant Revocable License provide access to Claratina Avenue. Claratina Avenue is designated a Class B Expressway in the City's General Plan and access is limited to typically one Collector Street at intervals between ¼ to ½ mile between two Arterial Streets. The ultimate location of a Collector Street along Claratina Avenue between the Arterial Streets, Coffee Road and Oakdale Road, will be determined through the preparation of a specific plan for the Hetch Hetchy Comprehensive Planning District (CPD). Since the Hetch Hetchy CPD does not have an approved specific plan to determine the location of the Collector Street, the proposed access on Claratina Avenue is identified as an interim Collector Street which is almost ¼ mile from Coffee Road.

In 2002, Shelter Cove Community Church submitted an application to amend the General Plan, and to prezone and to annex their property of approximately 17.4 acres. The General Plan amendment would shift the church site from the Hetch Hetchy CPD to the North Beyer CPD. The proposal included a 69,000-square-foot church and offices. The Council approved the proposal on February 25, 2003, including the adoption of a Mitigated Negative Declaration for General Plan Amendment, Specific Plan Amendment and Annexation for the Claratina Golf Course and Driving Range Site (SCH No. 2002122117). The annexation of the parcel was approved by LAFCO on April 23, 2003.

The Shelter Cove Community Church Final Development Plan was approved in 2005 for a 106,415-square-foot church, with offices and Sunday-school classrooms. It included two phases with a 60,147 square-foot building in phase 1 and a 46,268 square-foot building in phase 2. The project size was larger than the approval in 2003. Staff prepared an Initial Study, Environmental Assessment No. EA/C&ED 2005-02 which analyzed the revised project and concluded that there are no new significant impacts that resulted from the revisions and that therefore no new environmental review was required.

The Final Development Plan was approved with two driveways on Coffee Road. The southernmost driveway is restricted to right-in/right-out only movements by a median on Coffee Road to conform to City standards for minimum distances of driveways from major intersections. The second driveway is a full-access driveway located at the far north end of the site.

In 2005, Shelter Cove presented a plan that showed a private on-ramp from the site to the future extension of Claratina Avenue (Claratina Avenue was improved with two lanes from Coffee Road to Oakdale Road in 2009). As described above, expressway access is limited to Collector Streets, but the City Council can grant expressway access from private parcels subject to meeting the City's Expressway Access Policy. In reviewing this proposal, Public Works staff determined that the proposed on-ramp did not meet City's Policy. The church was unable to design an on-ramp that met City standards and eventually decided to eliminate the proposed access. Church representatives indicated that they may, in the future, revisit access to Claratina Avenue with a separate application.

The proposed a right-in and right-out access point on Claratina Avenue at the east end of the church site is recognized as access to an interim Collector Street and not a private driveway. The proposed access includes right-in and right-out merge lanes and a concrete curb median to restrict left turns in and out of the church site. Claratina Avenue is planned to have a median but was not included with the 2009 improvements. The proposal does not include any changes to facility size or use approved in 2005.

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.

Paul Lin — Project Manager

Senior Planner — Title

March 26, 2010 — 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 is 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. 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 has installed an interim roundabout at the Coffee Road and Claratina Avenue intersection. The City Traffic Engineering staff determined that an interim roundabout will provide an equivalent Level of Service (LOS) as the permanent traffic signal for the phase 1 of the project. The City expects that the permanent traffic signal will be installed prior to the phase 2 of the project or as indicated in the Development Agreement that 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. The necessary right-of-way along Coffee Road and Claratina Avenue has been dedicated or acquired as part of the phase 1 development of the church.

c. As part of the 2005 review of the Final Development Plan, the applicant submitted the Traffic Access Assessment for Shelter Cove Community Church Master Plan Modesto, dated June 22, 2004 prepared by KD Anderson Transportation Engineers. In addition to addressing the provisions of the mitigation measure requiring a Site Access Study, the Assessment analyzed the potential for increased traffic impacts due to the increased size of the project. The Assessment concluded that the 2005 project would add only 19 P.M. peak-hour trips over what was analyzed in the Mitigated Negative Declaration, and concluded 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 City Traffic Engineering staff reviewed the Assessment and agreed with its conclusions.

3. Changes in the Proposed Project

The proposed project for access to Claratina Avenue does not increase the size of the approved project for 106,415 square feet of building area and consequently will not increase traffic impacts. The Traffic Access Study prepared by KD Anderson Transportation Engineers dated June 22, 2004, show a right-in and right-out access on Clarartina Avenue would slightly improve traffic flow. Therefore, there are no changes needed to the Mitigated Negative Declaration.

4. Changes in Circumstances Surrounding the Project

An interim roundabout at the intersection of Coffee Road and Claratina Avenue was installed with phase 1 of the church project. The City Traffic Engineering staff has conducted an LOS analysis, and concluded that either interim traffic control devise will provide an equivalent LOS, at least until the church constructs their second phase. With the development of phase 2, a permanent traffic signal will need to be installed, unless additional traffic and CEQA analyses determines that alternative improvements to the intersection will achieve an acceptable LOS, given the conditions at that time.

In May of 2009, the City completed the extension of a two-lane Claratina Avenue from Coffee Road to Oakdale Road. As discussed in Section 3 above, the proposed access to Claratina Avenue would slightly improve traffic flow. 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. 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 proposed project for access to Claratina Avenue will not alter the Final Development Plan approval in 2005 for 106,415 square feet of building area. There would be no increase in air quality impacts because the traffic volume will not change. A Traffic Access Study prepared by KD Anderson Transportation Engineers dated June 22, 2004, show a right-in and right-out access on Clarartina Avenue would improve traffic flow.

4. Changes in Circumstances Surrounding the Project

The General Plan MEIR, which the Mitigated Negative Declaration adopted in 2003 was tiered off of, identified that buildout of General Plan would result in significant, unavoidable cumulative impacts to air quality, and the City Council adopted a statement of overriding considerations in certifying the MEIR. The General Plan MEIR was updated in 2008, and a statement of overriding consideration of unavoidable cumulative impacts to air quality was adopted again. The 2008 updated General Plan MEIR identifies the San Joaquin Valley Air Pollution Control District (SJVAPCD) 2007 Ozone Plan whereby mobile and stationary sources will be subject to new regulatory requirements. The 2008 General Plan include policies to address air quality impacts including requiring compliance with the updated SJVAPCD regulations and such policies will help reduce air quality impacts but not to a less-than-significant level.

At this time 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. 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 63 Ldn contour is located 74 feet from the centerline of Claratina Avenue, per Table V-3-7 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 apply to construction activities for the proposed access on Claratina Avenue.

3. Changes in the Proposed Project

Since the proposal for access on Claratina Avenue does not increased size of the church or its operation, there will be no increase in noise impacts resulting from the project that would require revisions in the Mitigated Negative Declaration. As noted above, the mitigation measures for construction activities imposed by the Mitigated Negative Declaration will apply to the project.

4. Changes in Circumstances Surrounding the Project

There have been no changes to circumstances that will affect the proposed project 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 were 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. 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 was applied as a condition of approval of the Final Development Plan approved in 2005 and is not applicable to the proposed 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 agricultural 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 changes to circumstances that will affect the proposed project 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 were 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. 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

The proposed access to Claratina Avenue will not create any 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

There have been no changes to circumstances that will affect the proposed project in relation to water supply.

5. New Information Not Known at the Time of Adoption of the Mitigated Negative Declaration

No new information has become available related to water supply impacts that were not known at the time of adoption of the Mitigated Negative Declaration that would require revisions to the Mitigated Negative Declaration.

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. 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

The proposed access to Claratina Avenue will not create any 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

Recently the City completed the Dissolved Air Flotation (DAF) project, which corrected disposal deficiencies, and is currently implementing the Phase 1A tertiary treatment project, which will provide some additional year-round disposal capacity for growth. However, the City recently received a new waste discharge permit with limits more restrictive than those previously indicated in the 2007 WWMP, and includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River. Therefore, in order to meet these new discharge requirements, the City is planning to eliminate seasonal river discharges and replace with year-round discharge with tertiary treated wastewater (Phase 2). The Phase 2 treatment plant improvements are expected to be operational by 2013. The project will not have any impact on sanitary sewer service, 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. 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 changes to circumstances that will affect the proposed project 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 were 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. 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 changes to circumstances that will affect the proposed project 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 were 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. 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 was applied as a condition of approval of the Final Development Plan. The proposed new access will have to comply with stormwater storage requirements.

b. This mitigation measure was applied as a condition of approval of the Final Development Plan. The proposed new access will have to comply with any approved outfall connection in the Claratina Expressway.

3. Changes in the Proposed Project

The increase in impermeable surfaces and a consequent increase in runoff will be minimal. The project 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 that will affect the proposed project 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 were 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. 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:

See discussion for flooding and water quality.

3. Changes in the Proposed Project

The project will result in minimal 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 that will affect the proposed project 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 were 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. 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 the proposed access on Claratina Avenue does not create impacts to parks, 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 changes to circumstances that will affect the proposed project 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 were 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. 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 the proposed access to Claratina Avenue does 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 changes to circumstances that will affect the proposed project 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 were 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. 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

Since the proposed access to Claratina Avenue does not create an impact to police services, there are no additional impacts to police services resulting from the project that would require revisions in the Mitigated Negative Declaration.

4. Changes in Circumstances Surrounding the Project

There have been no changes to circumstances that will affect the proposed project 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 were 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. 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

The Fire Department review of the proposed access resulted in revision to the plan with wider pavement to satisfy emergency access. The proposed access on Claratina Avenue will slightly better access from responding fire engines from the east. There are no additional impacts to fire services 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 that will affect the proposed project 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 were 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. 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 solid waste 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 changes to circumstances that will affect the proposed project 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 were 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. 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 hazardous materials 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 changes to circumstances that will affect the proposed project 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 were 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. 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 changes to circumstances that will affect the proposed project 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 were 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. 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 energy or mineral resources 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 changes to circumstances that will affect the proposed project 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 were 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. 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 planning or land use 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 changes to circumstances that will affect the proposed project 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 were 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. 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 is no additional population or housing 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 changes to circumstances that will affect the proposed project 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 were 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. 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 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 changes to circumstances that will affect the proposed project 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 were 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 will apply to the proposed construction activities.

Traffic and Circulation Measures: None.

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 onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizers/suppressant.

c. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

d. 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.

e. 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.)

f. 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.

g. 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.

h. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

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: None.

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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-125

RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND NATIONAL DEMOGRAPHICS CORPORATION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Economic Development Committee held a meeting on March 8, 2010, and approved a Consultant be hired to assist the City of Modesto Run-Off Election Ad Hoc Committee, and

WHEREAS, the City of Modesto Run-Off Election Ad Hoc Committee requires the services of an expert to guide them in a review of the City of Modesto Charter, Article III, Section 300 regarding run-off elections, and

WHEREAS, National Demographics Corporation has the necessary experience and qualifications to assist the Committee with a review of the City of Modesto Charter, Article III, Section 300 regarding run-off elections,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Consultant Services between the City of Modesto and National Demographics Corporation, in an amount not to exceed $20,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-126

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-127

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 & 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the provisions

of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-128

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF TEN (10) SOLE BRAND CLEAIRE "HORIZON" DIESEL PARTICULATE FILTER UNITS FOR THE PUBLIC WORKS, FLEET SERVICES DIVISION, TO CUMMINS WEST, INC., WEST SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $141,675

WHEREAS, the California Air Resources Board (CARB) requires that municipalities with diesel trucks above 14,000 Gross Vehicle Weight (GVW), 2003 to 2006 model year engines, retrofit 100% of this group of trucks by the end of 2010 with CARB-compliant diesel particulate filters, and

WHEREAS, the Cleaire "Horizon" is the only CARB compliant diesel particulate filter on the market that meets the City's operating requirements. Staff solicited quotes from firms that are Cleaire authorized California distributors that offer installation within one hundred miles of Modesto, and

WHEREAS, the City Manager authorized the Purchasing Manager, or his designee, to receive quotations from these firms to purchase and install ten (10) sole brand Cleaire "Horizon" diesel particulate filters for the Public Works Department, Fleet Services Division, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment, or contractual services to be formally bid. However, one exception to the formal bid process, MMC Section 8-3.204(b), states, "Where the Purchasing Agency's requirements can be met solely by a single article or process . . .". The sole brand purchase of ten (10) Cleaire

"Horizon" diesel particulate filter units for the Public Works Department, Fleet Services Division, from Cummins West, Inc., West Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-0365,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of ten (10) sole brand Cleaire "Horizon" diesel particulate filter units, for the Public Works Department, Fleet Services Division, to Cummins West, Inc., West Sacramento, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $141,675.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13thth day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-129

A RESOLUTION ACCEPTING THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION PROGRAM GRANT IN THE AMOUNT OF $191,317 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY FOR PROJECT WAKE UP; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as Project Wake Up from the California Gang Reduction, Intervention and Prevention Program (CalGRIP), and

WHEREAS, the Police Department was awarded a grant in the amount of $191,317 from CalGRIP, and

WHEREAS, this grant will provide additional educational programs for youth designed to guide delinquents in overcoming negative peer influences, and

WHEREAS, this grant will provide overtime for officers to partake in the program, 20% of a Police Assistant, interpreter headsets, training, office equipment, and supplies, and

WHEREAS, 20% of the grant funds will be given to the Community Based Organization, Sierra Vista Child and Family Services, who since 1972 has been helping abused, neglected, and emotionally disturbed children and families in crisis,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Gang Reduction, Intervention and Prevention Program grant in the amount of $191,317 from the California Emergency Management Agency for Project Wake Up.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2010-130

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING AND MULTI-YEAR BUDGETS TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF $191,317 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY FOR PROJECT WAKE UP

WHEREAS, the Police Department applied for and was awarded a grant in the sum of $191,317 from the California Emergency Management Agency for Project Wake Up, to guide delinquents in overcoming negative peer influences, and

WHEREAS, the grant will provide overtime for officers to partake in the program, 20% of a Police Assistant, interpreter headsets, training, office equipment, and supplies, and

WHEREAS, 20% of the funds received will be given to the Community Based Organization, Sierra Vista Child and Family Services, who since 1972 has been helping abused, neglected, and emotionally disturbed children and families in crisis, and

WHEREAS, there is an in-kind match required of $227,126 for this grant which will be provided through and existing police officer's salary and management oversight with no additional cost to the City, and

WHEREAS, the term of this program will be from April 1, 2010, through March 31, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/2010 Operating and Multi-Year Budgets are shown on the Budget Adjustment Form **attached** are hereby amended.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Police Department
Council Action Date:
Resolution Number:
FY: 09-10
Fund Title: 0410- Operation Grants Reimbursed
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
0410-190-2912-3490			$191,317		State Grants
0410-190-2912-3702			$227,126		Contributions In-Kind
			$418,443		
APPROPRIATIONS					
FROM					
TO					
0410-190-2912-0184	2912-A		$20,800		Salary Adjustment
0410-190-2912-0194	2912-A		$1,560		Benefits Adjustment
0410-190-2912-0130	2912-A		$64,800		Overtime
0410-190-2912-0205	2912-C		$2,200		Printing and Binding
0410-190-2912-0207	2912-C		$8,060		Conference Expenses
0410-190-2912-0208	2912-C		$10,400		Business Expenses
0410-190-2912-0235	2912-C		$49,317		Services Professional and Other
0410-190-2912-0240	2912-C		$227,126		Intergovernmental Services
0410-190-2912-0255	2912-C		$9,000		Interfund Labor Charges
0410-190-2912-0301	2912-C		$3,662		Office Supplies
0410-190-2912-5400	2912-C		$6,518		Computer Equipment $5K - <$100K
0410-190-2912-5021	2912-C		$15,000		Audio Equipment
			$418,443		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget adjustment is being made to program Grant funds and in-kind match contribution for a grant awarded to the Modesto Police Department in the amount of $418,443. This is a multi-year (2-year) reimburseable grant from California Emergency Management Agency (Cal EMA) under the California Gang Reduction, Intervention and Prevention (CalGRIP) Program. The grant will commence on April 1, 2010 and end on March 31, 2012. This action will establish a new multi-year operating organization for these grant funds and the in-kind match and program offsetting expenses as identified in the grant award document.

AUTHORIZATION (check if required)	SIGNATURE	DATE
Prepared By: Julie Hendee, Public Safety Business Services Analyst		
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)		

TRANSFER NO.:

PW: AT w/interfund Template 7/28/2005 BY: DATE:

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-131

RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY REQUESTING $439,032 IN FY 2009-10 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS FOR TRANSIT SECURITY PROJECTS FOR THE NEW BUS MAINTENANCE FACILITY AND IN FIXED ROUTE BUSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, California voters approved the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B) in November 2006, and

WHEREAS, Prop 1B provided the Stanislaus County region with a funding allocation of $413,426 in FY 2009-10 for public transit security projects, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds, and has allocated these funds to the City of Modesto, and

WHEREAS, Prop 1B also provides $25,606 specifically for the City of Modesto for transit security projects, and

WHEREAS, City staff proposes to submit a grant application that combines the regional and local allocations for a total of $439,032 for a security wall, video surveillance, gates, and lighting for the new Bus Maintenance Facility, and also installation of video surveillance systems in the fixed route buses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to submit a grant application to the California Emergency Management Agency requesting $439,032 in California Transit Assistance Funds for transit security projects for the New Business Maintenance Facility and in fixed route buses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant application and grant agreement documents with the California Emergency Management Agency.

BE IT FURTHER RESOLVED that the City Manager may designate the Director of Public Works to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager may designate the Transit Manager to execute all grant application and grant agreement documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-132

A RESOLUTION APPROVING AN AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR ON-CALL FUNDING SUPPORT SERVICES FOR UTILITY PROJECTS FOR VARIOUS UTILITY PLANNING & PROJECTS – CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $100,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning & Projects Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring funding support services for utility projects, and

WHEREAS, CIS has found it necessary to utilize the services of a specialized consulting funding support firm, and

WHEREAS, retaining on-call funding support services allows the division quick access to support for specific application processes for funding through grants and loans, and

WHEREAS, capital improvement projects presently scheduled for review and processing by City staff continue to rise at a rapid rate, and

WHEREAS, using an experienced funding support firm provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous utility-related capital improvement projects, and

WHEREAS, the goal in having an on-call funding support consultant is to standardize the outcome of the review process, reduce response time, and promote project cost savings, which positively impacts the CIP Budget, and

WHEREAS, due to the current uncertainty in the bond market, the City needs to consider all available options in order to fund utility projects, and

WHEREAS, the City of Modesto has begun applying for funding for several wastewater treatment projects that qualify for loan assistance, and

WHEREAS, the Clean Water State Revolving Fund (CWSRF) is a loan assistance authority for water quality improvement projects, and

WHEREAS, the fund is administered by the State Water Resources Control Board (SWRCB), and

WHEREAS, it provides loans for the construction of municipal wastewater projects including large-scale wastewater collection and treatment projects, and

WHEREAS, the program is desirable because of its flexible terms and low interest rates, 2.9%, for 20 years, and

WHEREAS, the current recommendation is based on an earlier selection process that was performed in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects in October 2008, and

WHEREAS, the Public Works Director approved a short-list of eight engineering firms that have extensive experience with water and wastewater treatment design and funding support services, and

WHEREAS, on October 28, 2008, a Request for Proposals (RFPs) was sent to those eight engineering firms, and

WHEREAS, two proposals were submitted and subsequently reviewed by the Selection Committee, which consisted of three City staff, one member of the Building

Industry Association of Central California, and one member of the Manufacturer's Council of the Central Valley, and

WHEREAS, following the consultant interviews, the Selection Committee determined that RMC Water and Environment (RMC) of Walnut Creek was the most qualified firm to perform both value engineering and funding support services, and

WHEREAS, RMC performed well on that agreement which included some tasks related to funding support services, and

WHEREAS, City staff is recommending that RMC be retained on an on-call basis to continue work on the Phase 2 tertiary project funding and potentially other projects, and

WHEREAS, RMC is a well-respected firm that has a thorough understanding of the funding process, and has successfully completed multiple CWSRF loan applications, and

WHEREAS, it has helped many California agencies and municipalities obtain over $450 million in the past seven years, and

WHEREAS, the application process requires intensive coordination with the City, and SWRCB, and

WHEREAS, RMC is familiar with many of the City's projects including recent work on Value Engineering of Phase 2 BNR/Tertiary Treatment Project which was very important because it is a requirement for CWSRF loans for projects over $10 million, and

WHEREAS, they also have a close working relationship with the state agency's representative, and

WHEREAS, City staff has confidence that RMC is well-qualified, and has the expertise to move the application process in a timely manner, and

WHEREAS, RMC will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, RMC will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to RMC prior to commencement of services, and

WHEREAS, City staff recommends an On-call Funding Support Services Agreement with RMC Water and Environment be approved, and

WHEREAS, RMC will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with RMC Water and Environment for On-call Funding Support Services for Utility Projects for various Utility Planning & Projects – Capital Improvement Program projects for one year, with two one-year extension options at the sole discretion of the City in an amount not to exceed $100,000 per year. Total cost for three years is not to exceed $300,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-133

A RESOLUTION AUTHORIZING CHANGE ORDERS FOR THE PROJECT TITLED "MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN" IN THE AMOUNT OF $28,541.84

WHEREAS, the City Council, on October 7, 2008, by Resolution No. 2008-573, awarded a $229,910.41 contract to Teichert Construction to construct the Merle Avenue Improvements at the Village One Central Basin project , and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work has been estimated to be $28,541.84, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $25,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes change orders for the project titled "Merle Avenue Improvements at the Village One Central Basin" in the amount of $28,541.84.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-134

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $258,452.25

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the project titled "Merle Avenue Improvements at the Village One Central Basin" has been completed by Teichert Construction in accordance with the contract agreement dated October 7, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Merle Avenue Improvements at the Village One Central Basin" is hereby accepted as complete from said contractor Teichert Construction.

BE IT FURTHER RESOLVED that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and to release securities upon expiration of statutory periods.

BE IT FURTHER RESOLVED that payment of amounts totaling $258,452.25 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-135

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE FALL PROTECTION AT TANKS 3, 4, 5, 6, 7, 8 & 9 PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH TCB INDUSTRIAL, INC. IN THE AMOUNT OF $43,448 FOR THE FALL PROTECTION AT TANKS 3, 4, 5, 6, 7, 8 & 9 PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Fall Protection at Tanks 3, 4, 5, 6, 7, 8 & 9 project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Fall Protection at Tanks 3, 4, 5, 6, 7, 8 & 9 project were opened at 11:00 a.m. on March 9, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $43,448 received from TCB Industrial, Inc. be accepted as the lowest responsible bid and the contract be awarded to TCB Industrial, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Fall Protection at Tanks 3, 4, 5, 6, 7, 8 & 9 project, accepts the bid of TCB Industrial, Inc. in the amount of $43,448, and awards TCB Industrial, Inc. the contract for the Fall Protection at Tanks 3, 4, 5, 6, 7, 8 & 9 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 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-136

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE E. COOLIDGE WATERLINE REPLACEMENT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH CLYDE WHEELER PIPELINE, INC. IN THE AMOUNT OF $617,136.40 FOR THE E. COOLIDGE WATERLINE REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the E. Coolidge Waterline Replacement project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the E. Coolidge Waterline Replacement project were opened at 11:00 a.m. on March 2, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $617,136.40 received from Clyde Wheeler Pipeline, Inc. be accepted as the lowest responsible bid and the contract be awarded to Clyde Wheeler Pipeline, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the E. Coolidge Waterline Replacement project, accepts the bid of Clyde Wheeler Pipeline, Inc. in the amount of $617,136.40, and awards Clyde Wheeler Pipeline, Inc. the contract for the E. Coolidge Waterline Replacement project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-137

A RESOLUTION APPROVING A FIVE-YEAR EXTENSION OF THE OCTOBER 2001 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE STANISLAUS AND TUOLUMNE RIVERS GROUNDWATER BASIN ASSOCIATION FOR PURPOSES OF CONTINUED COORDINATION RELATED TO GROUNDWATER MANAGEMENT ACTIVITIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A LETTER OF EXTENSION

WHEREAS, the City overlies two groundwater basins, the Modesto Groundwater Sub-basin, overseen by the Stanislaus and Tuolumne Rivers Groundwater Basin Association (STRGBA), and the Turlock Groundwater Sub-basin, overseen by the Turlock Groundwater Basin Association, and

WHEREAS, on October 9, 2001, by Resolution No. 2001-515, the City Council approved a Memorandum of Understanding (MOU) between the City and the STRGBA to coordinate groundwater management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, since then, City staff has actively participated in ongoing groundwater management efforts, and on June 29, 2005, by Resolution No. 2005-340, the City Council approved an Integrated Regional Groundwater Management Plan (IRGMP) developed by the STRGBA, and

WHEREAS, with an objective of developing a safe and sustaining water supply, the IRGMP provides a framework for overseeing and coordinating groundwater management activities within the Modesto Groundwater sub-basin, and

WHEREAS, specifically, the IRGMP identifies various Basin Management Objectives to be studied and possibly be implemented, such as, improving supply

reliability, identifying potential recharge areas, optimizing well field operations, and developing conjunctive use strategies to improve water quality, and

WHEREAS, currently, STRGBA has contracted with United States Geological Survey (USGS) to develop a time-dependent groundwater flow model that will simulate groundwater flow conditions now and into the future, and

WHEREAS, on November 7, 2007, by Resolution No. 2007-657, the City Council approved a renewal and four-year extension of the MOU between the City and the STRGBA, which will expire on December 31, 2010, and

WHEREAS, member agencies of the STRGBA have mutually agreed to recommend extending the terms of the MOU to their respective Councils or Boards for an additional five years, expiring on December 31, 2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a renewal and four-year extension of the October 2001 Memorandum of Understanding between the City and the Stanislaus and Tuolumne Rivers Groundwater Basin Association for purposes of continued coordination related to groundwater management activities.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a Letter of Extension.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-138

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CLAUS ROAD PAVEMENT REHABILITATION PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION IN THE AMOUNT OF $918,882.85 FOR THE CLAUS ROAD PAVEMENT REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Claus Road Pavement Rehabilitation project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Claus Road Pavement Rehabilitation project were opened at 11:00 a.m. on March 16, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $918,882.85 received from A. Teichert & Son, Inc. dba Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to A. Teichert & Son, Inc. dba Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Claus Road Pavement Rehabilitation project, accepts the bid of A. Teichert & Son, Inc. dba Teichert Construction in the amount of $918,882.85, and awards A. Teichert & Son, Inc. dba Teichert Construction the contract for the Claus Road Pavement Rehabilitation project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-139

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH VALLEY SLURRY SEAL COMPANY IN THE AMOUNT OF $2,220,701.08 FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project were opened at 11:00 a.m. on March 2, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $2,220,701.08 received from Valley Slurry Seal Company be accepted as the lowest responsible bid and the contract be awarded to Valley Slurry Seal Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project, accepts the bid of Valley Slurry Seal Company in the amount of $2,220,701.08, and awards Valley Slurry Seal Company the contract for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets 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 13th day of April, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-140

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH VALLEY SLURRY SEAL COMPANY IN THE AMOUNT OF $2,220,701.08 FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT. W. ROSEBURG (MCHENRY TO VIRGINIA), COLDWELL (ENSLEN TO COLLEGE) AND W. MORRIS (MCHENRY TO VIRGINIA)

WHEREAS, plans and specifications have been prepared for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project were opened at 11:00 a.m. on March 2, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $2,220,701.08 received from Valley Slurry Seal Company be accepted as the lowest responsible bid and the contract be awarded to Valley Slurry Seal Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project, accepting the bid, and approving a contract with Valley Slurry Seal Company in the amount of $2,220,701.08 for the American Recovery and Reinvestment Act of 2009

Funded Cape and Slurry Seal on Various Streets project, and authorizing the City Manager, or his designee, to execute the contract.

- W. Roseburg (McHenry to Virginia)
- Coldwell (Enslen to College)
- W. Morris (McHenry to Virginia)

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 13th day of April, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-141

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH VALLEY SLURRY SEAL COMPANY IN THE AMOUNT OF $2,220,701.08 FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED CAPE AND SLURRY SEAL ON VARIOUS STREETS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT. 14TH STREET (D TO K STREETS)

WHEREAS, plans and specifications have been prepared for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project were opened at 11:00 a.m. on March 2, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $2,220,701.08 received from Valley Slurry Seal Company be accepted as the lowest responsible bid and the contract be awarded to Valley Slurry Seal Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project, accepting the bid, and approving a contract with Valley Slurry Seal Company in the amount of $2,220,701.08 for the American Recovery and Reinvestment Act of 2009 Funded Cape and Slurry Seal on Various Streets project, and authorizing the City Manager, or his designee, to execute the contract.

- 14th Street (D to K Streets)

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 13th day of April, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-142

RESOLUTION APPROVING THE SEVEN MODESTO BRAND ANCHORS IDENTIFIED BY THE COMMONWEALTH MODESTO GROUP AND DIRECTING STAFF TO WORK WITH COMMONWEALTH AND THE ECONOMIC DEVELOPMENT PARTNERSHIP TEAM TO DEVELOP AN OVERALL STRATEGY FOR USE OF THE ANCHORS

WHEREAS, Commonwealth Modesto (CWM) was started in 2007 by a small group of aspiring community leaders and professionals, and

WHEREAS, to date, Commonwealth has identified six (6) community impact projects known as "Pods" designed to improve the community and develop member leadership skills: Boys and Girls Club, Branding, Community Development, Future Cities Competition, Innovation Center and Strategic Plan, and

WHEREAS, the Branding Pod's focus is on the image of Modesto, and

WHEREAS, in 2009, the group conducted a survey resulting in 3,400 responses, and

WHEREAS, the results of the survey and introduction of the seven brand anchors were presented to the Economic Development Partnership members and members of the community on January 20, 2010, with the request that each organization endorse these anchors and use them to promote Modesto, and

WHEREAS, the seven anchors were identified from the survey responses as areas that most respondents agreed are positive aspects of the community: Agriculture and Industry, Community, Location, Culture, Parks & Outdoors, Hometown Heroes, Small Town Feel,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the seven Modesto brand anchors for use in such items as the

City's Strategic Plan, website and presentations, and direct staff to work with Commonwealth and the Economic Development Partnership team to develop an overall strategy for use and implementation,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of April, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-157

RESOLUTION APPOINTING WILLIAM MILLER AS A MEMBER OF THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE REPRESENTING THE CITY OF MODESTO

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 April 12, 2010, and recommended the appointment of William Miller 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. William Miller is hereby appointed as a member of the Tuolumne River Regional Park Citizens Advisory Committee representing the City of Modesto, with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-158

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE GRAPHICS DRIVE REALIGNMENT PROJECT LOCATED SOUTH OF GRAPHICS DRIVE AND WOODLAND AVENUE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Modesto Irrigation District ("DEVELOPER"), is the developer of Graphics Drive Realignment Project ("DEVELOPMENT"), and

WHEREAS, all required improvements (PUBLIC IMPROVEMENTS) by the DEVELOPMENT have been completed to the satisfaction of the Construction Administration Office of the Utility Planning and Projects Department and have been verified that all required PUBLIC IMPROVEMENTS for this DEVELOPEMENT have been satisfactorily completed, and all inspection fees have been paid, and

WHEREAS, upon acceptance of the PUBLIC IMPROVEMENTS, the Utility Planning and Projects Department will assume maintenance responsibilities with the exception of the landscaping , and

WHEREAS, the Modesto Irrigation District entered into an agreement on January 12, 2010, with the City of Modesto to maintain the landscaping, and

WHEREAS, the securities as required by the City of Modesto are in place with the City Clerk's Office,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The PUBLIC IMPROVEMENTS for the DEVELOPEMENT are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the PUBLIC IMPROVEMENTS.

2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of $2,004,304.75 after recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of $2,004,304.75 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee the PUBLIC IMPROVEMENTS in the amount of $200,430.48 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 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-159

A RESOLUTION APPROVING THE PARCEL MAP OF THE GRAPHICS DRIVE REALIGNMENT PROJECT IN THE CITY OF MODESTO, AUTHORIZING THE CITY ENGINEER, OR HIS DESIGNEE, TO SIGN THE ACCEPTANCE OF DEDICATION, AUTHORIZING THE CITY CLERK TO CERTIFY THE PARCEL MAP AND AUTHORIZING THE CITY CLERK TO SIGN THE ABANDONMENT STATEMENT AND RECORD IT WITH THE STANISLAUS COUNTY RECORDER'S OFFICE

WHEREAS, Modesto Irrigation District (MID), a California Irrigation District, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 11.54 acres, to be re-parceled to realign Graphics Drive , and

WHEREAS, a vesting tentative parcel map was approved by the Planning Commission of the City of Modesto on the 17th day of August, 2009, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the parcel map substantially conforms to the approved vesting tentative parcel map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the parcel map meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to parcel maps, and that the map is technically correct, and

WHEREAS, California Subdivision Map Act Section 66445(j) states that, "The filing of the parcel map shall constitute abandonment of all public streets and public easements not shown on the map, provided that a written notation of each abandonment is listed by reference to the recording data or other official record creating these public streets or public easements and certified to on the map by the clerk of the legislative body or the designee of the legislative body approving the map," and

WHEREAS, the road right-of-way and the public utility easement to be abandoned are more particularly described on the parcel map, and

WHEREAS, MID has relocated all the public utilities within the area to be abandoned, and

WHEREAS, the Council of the City of Modesto finds and declares that the abandonment of the public utility easement and road right-of-way are made pursuant to California Subdivision Act Section 66445(j), and

WHEREAS, securities are on file in the Clerk's Office, as required by the City of Modesto, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California and in forms acceptable to the City Attorney and in the amounts required by the City Engineer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said parcel map is approved; that the City Engineer, or his designee, is authorized to sign the Acceptance of Dedication for public streets and easements as shown thereon within the boundaries shown on the parcel map to be accepted on behalf of the public for public use; and that the City Clerk is authorized to certify the parcel map 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.

BE IT FURTHER RESOLVED that the City Clerk is authorized to sign the Abandonment Statement regarding the public utility easement and the road right-of-way being abandoned with this parcel map.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-160

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 AND FISCAL YEAR 2009-2010 ANNUAL BUDGETS

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009 and Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 and Fiscal Year 2009-2010 budgets have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT

Currently, California Equity Management Group pays a lease payment of $874.00 per month for the City's maintenance of all improvements to a portion of W. Briggsmore Avenue right-of-way in the connection with the redevelopment of the property located at 2000 W. Briggsmore Avenue. At the time the budget was originally established for this payment, the account was placed in Org 1413 inaccurately. The revenue from this lease payment rightfully should be deposited into the Capital Facilities Fees (CFF) account. This action is merely correcting the budget as follows: Decrease the budgeted amount of $10,488 in 0100-140-1413-6201 and move it to 1410-430-4399-6201. All recognized revenue in this account will be transferred through a Journal Voucher.

FINANCE

An adjustment is necessary to reduce appropriations by $57,351in the Capital Improvement Project N591, Hybrid Electric Bus and to close the account. The project is complete and ready for closure. In addition, this adjustment reduces revenue in the amount of $57,351 and returns unused funds to the Bus Fund reserves.

An adjustment is necessary to reduce appropriations by $75,048 in the Capital Improvement Project J401, FY04-05 Bus Purchases and to close the account. The project is complete and ready for closure. In addition, this adjustment reduces revenue in the amount of $376,048 and returns unused funds to the Bus Fund reserves.

An adjustment is necessary to increase revenue in Fund 6310, Airport Operations, in the amount of $74,266 and Fund 6330, Special Revenue, in the amount of $74,266 for revenue received to date in the operational tax account.

An adjustment is necessary to reduce the Gas Tax Street Maintenance multi-year budget, 0700-410-4120-8014, by $2,757 to equal the actual multi-year expenditures, and close the account. This account is no longer needed since street maintenance expenses are being performed through grant projects, garbage franchise fees or Proposition 1B funding.

An adjustment is necessary to reduce appropriations by $219,432 in Capital Improvement Project H468, Plan Lines, close the account and return unused funds to the Street Capital Facilities Fund reserves.

An adjustment is necessary to reduce appropriations by $24,660 in Capital Improvement Project Q210, Claratina – Coffee to Oakdale 2 Lanes, close the account and return unused funds to the Street Capital Facilities Fund reserves.

FLEET

On June 9, 2009 the City Council approved the creation of sub-funds at the fund level to allow departments to monitor their equipment replacement funds. When a piece of equipment is purchased, the equipment has been received and the Fleet Department has signed off on the purchase order, a budget adjustment transferring funds from the purchasing department's budget to the Fleet Replacement Fund (7210), is completed. In some cases budget adjustments can cross fiscal years. The following budget adjustments are related to this new procedure.

An adjustment is necessary to transfer funds in the amount of $307,711 from the Special Gas Tax Fleet Replacement Fund, 0709 to the Fleet Replacement Fund, 7210, for purchases made in FY2008-09 which included two concrete saws, two concrete grinders, concrete push truck grinder, trailer, 28K GVW W/5/6 yard dump truck and a 33.0 w/digger derrick truck.

An adjustment is necessary to transfer funds in the amount of $417,310 from the Water Fleet Replacement Fund, 6109 to the Fleet Replacement Fund, 7210, for purchases made in FY2008-09 which included a ¾ ton utility truck, 14 yard dump truck, ¾ ton full size truck, F550 truck with utility body and 14 ton 33.0 crane truck.

An adjustment is necessary to transfer funds in the amount of $322,969 from the Wastewater Fleet Replacement Fund, 6219 to the Fleet Replacement Fund, 7210, for purchases made in FY2008-09 which included an excavator, 58.0 3 axle water truck, ¾ ton 2WD pick-up truck and a ½ ton full size pick-up truck.

An adjustment is necessary to transfer funds in the amount of $252,314 from the Storm Drain Fleet Replacement Fund, 6289 to the Fleet Replacement Fund, 7210, for purchases made in FY2008-09 which included 58.0 bin hauler truck, five bins16' X 4' HD one piece door and a 28.8 w/5/6 yard dump truck.

An adjustment is necessary to transfer funds in the amount of $113,902 from the Compost Fleet Replacement Fund, 6299 to the Fleet Replacement Fund, 7210, for purchases made in FY2008-09 which included an 18 yard dump truck.

PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment is necessary to: 1) move $70,000 in Prop 40 RZH funding from M182, Maddux Youth Center Improvements, to P493, Park System Improvement. The Maddux Youth Center Improvements project has been completed and California State Parks has approved the City's re-appropriation of this unused Prop 40 RZH money to other improvements in the parks system; 2) this budget adjustment also moves $1,578 from Construction Admin, Object 6060, to City Forces Construction, Object 6041 in Capital Improvement Project P493, Park System Improvements; and 3) close Capital Improvement Project M182, Maddux Youth Center Improvements and return $5,821 to the General Fund.

An adjustment is necessary to: 1) reduce the appropriations by $54,943 in the Capital Improvement Project P502, Monteroso Trailhead 69, and to close the account; 2) decrease the transfer in from Fund 1350, Parks Capital Facilities Fund; and 3) reduce the transfer out in Fund 1350, Parks Capital Facilities Fund, to Fund 2330, Capital Grants Parks.

POLICE

This budget adjustment is being made to: 1) eliminate a transfer-out from the Traffic Offender Fund (0610) to the General Fund (0100) in the amount of $220,000. This transfer was set up in conjunction with the Office of Traffic Safety (OTS) grant that the City received in 2006. The grant expired in December 2008, therefore, so did the nexus between the grant and the transfer-out. The transfer-out is unable to be sustained by the Traffic Offender Fund going forward; 2) in order to ensure that the Traffic Offender Fund is self-supporting, one Police Officer will move from the Traffic Offender Fund to a vacant position within the General Fund; and 3) the expense budget in the amount of $100,000 will be moved from the Traffic Offender Fund salary appropriations to the Traffic Offender Fund Reserves.

PUBLIC WORKS

An adjustment is necessary to transfer $66,000 from Water Reserves to the Water Fund, 6100-480-5024-0321, to pay higher Debt Service costs in FY2009-10 which were not budgeted relating to the Modesto Irrigation District Water Treatment and Delivery Agreement.

An adjustment is necessary to: 1) reduce the appropriations by $214,934 in the Water Fund, 6100-480-5020, GAC Nitrate Testing, as this is a duplicate project and needs to be closed; 2) transfer the $214,934 into Capital Improvement Project W430, Wellhead Treatment-Primary; and 3) transfer the $214,934 out of Capital Improvement Project W430, Wellhead Treatment-Primary into Capital Improvement Project W976, GAC Wells-Nitrate Analyzer which has already been established for GAC Nitrate Testing.

An adjustment is necessary to reduce appropriations by $17,235 in the Capital Improvement Project W008, Claratina- McHenry 12" Main and move funds back to the Primary Capital Improvement Project #W426, Extend Water Mains. Project W008 is complete and ready for closure.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-161

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE AND INSTALLATION OF VIDEO SURVEILLANCE SYSTEMS FOR THE TRANSPORTATION CENTER AND EXISTING BUS MAINTENANCE YARD TO CELPLAN TECHNOLOGIES, INC., RESTON, VA; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE THE AGREEMENT FOR AN ESTIMATED TOTAL COST OF $253,671.71

WHEREAS, the Transportation Center has an older video surveillance system that no longer works, and the bus yard has no video surveillance system, and

WHEREAS, the significantly improved replacement system for the Transportation Center would utilize fixed motion-sensitive cameras with pan/tilt/zoom (PTZ) capability and a high capacity digital video storage system, and

WHEREAS, the bus maintenance yard system would utilize a mix of PTZ and fixed cameras and similar video storage, and

WHEREAS, this Public Works contract will utilize the same prices, installation procedures and other specifications, as well as the same contract terms as the Modesto Police Department (MPD) contract, and

WHEREAS, furthermore, MPD will have the capability of monitoring the video footage captured from this system, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the MMC. One exception, MMC 8-3.204(d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest

possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The award of proposal and contract for the purchase and installation of a video camera monitoring system for the Public Works Department, Transportation Division, by accessing the terms of a competitively bid contract for the purchase and installation of a downtown video monitoring system for the Modesto Police Department, to CelPlan Technologies, Inc., Reston, VA, conforms to the Modesto Municipal Code, and

WHEREAS, the Cal EMA Fund has funds budgeted for the purchase and installation of video surveillance systems in Appropriation Unit: 6530-165-1674-5900,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase and installation of video surveillance systems for the Transportation Center and Bus Maintenance Yard to CelPlan Technologies, Inc., Reston, VA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated total cost of $253,671.71.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-162

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET TO RECOGNIZE GRANT FUNDS IN THE AMOUNT OF $253,671.71 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY AND TO INCREASE THE EXPENSE BUDGET BY THE SAME AMOUNT TO FULLY FUND THE PURCHASE AND INSTALLATION OF VIDEO SURVEILLANCE SYSTEMS FOR THE TRANSPORTATION CENTER AND BUS MAINTENANCE YARD

WHEREAS, the City of Modesto has received funds from the California Emergency Management Agency, and

WHEREAS, a budget adjustment is required to recognize this revenue and increase the Fiscal Year 2009-2010 expense appropriations for 6530-165-1674-5900 in the amount of $253,672 to fully fund the purchase and installation of a video camera monitoring system at the Transportation Center and Bus Maintenance Yard,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Operating Budget in order to fully fund the purchase and installation of video surveillance systems for the Transportation Center and Bus Yard.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-163

RESOLUTION APPROVING THE SALE OF SHERWOOD MANOR APARTMENTS, THE PAYOFF THE HOME LOAN AGREEMENT, THE EXECUTION OF A REGULATORY AGREEMENT WITH THE NEW OWNER, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL RELATED DOCUMENTS INCLUDING, BUT NOT LIMITED TO, THE REGULATORY AGREEMENT AND RECONVEYANCE

WHEREAS, by Resolution No. 94-425 the City of Modesto approved a HOME loan to Modesto Senior Housing Investors in the amount of $85,000 for the development of a senior housing project, known as Sherwood Manor located at 733 Maze Boulevard, Modesto, and

WHEREAS, the City received a request from Modesto Senior Housing Investors to consent to the sale of this property to the new buyer Senior Housing Associates XIV, who owns and manages other affordable housing projects in California, and

WHEREAS, the HOME loan agreement Section 3.10 (b) indicates that no transfer shall be permitted without the prior written consent of the City, which the City may withhold in its sole discretion, and

WHEREAS, City staff and the City Attorney's office have reviewed the HOME Loan Agreement and recommend approval of the sale to Senior Housing Associates XIV.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sale of Sherwood Manor Apartments to Senior Housing Associates XIV which will result in the pay off the City's HOME loan and the need to enter into a Regulatory Agreement with Senior Housing Associates XIV to maintain the affordability covenants for said property.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute all related documents including, but not limited to, the Regulatory Agreement and Reconveyance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____, Asst.
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-164

RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUEST FOR QUALIFICATIONS (RFQ) AND REQUEST FOR PROPOSALS (RFP) FOR THE LEASE OF THE JENNINGS RANCH PROPERTY

WHEREAS, on July 11, 2000, by Resolution 2000-344, the City Council approved a Lease Agreement with Pahrump Heifer Ranch (Pahrump) for the Jennings Ranch located at 7007 Jennings Road, and

WHEREAS, this Lease was effective for five years from June 1, 2000, through May 31, 2005, and also included five one-year extension options, which have all been executed, with the last extension through May 31, 2010, and

WHEREAS, on October 6, 2009, by Resolution 2009-468, the City Council approved an Amendment to the Lease extending the Lease expiration date to December 31, 2010, and

WHEREAS, City staff utilized the City's On-Call Engineering contract with Carollo Engineers and worked with them on a new Lease Agreement as well as an RFQ to qualify potential lessees, and

WHEREAS, the new Lease for the Jennings Ranch property will require agricultural crop production use only, and the Lease amount will be based on net irrigated acres not to exceed 2,530 acres, and

WHEREAS, the current Lease generates approximately $40,000 per year in revenue, and the new Lease will result in additional revenue of approximately $100,000 to $200,000 annually, and

WHEREAS, a review committee will review the qualifications of the applicants and will invite the most qualified, potential lessees to submit proposals for the lease of the Jennings Ranch property, and

WHEREAS, staff will negotiate the best contract that allows for the full use of the Ranch property for irrigation of treated wastewater, and

WHEREAS, staff will return to Council with a recommendation to award a lease in early September,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit Request for Qualifications (RFQ) and Request for Proposals (RFP) for the lease of the Jennings Ranch Property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-165

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR ENGINEERING SUPPORT DURING CONSTRUCTION FOR THE DIGESTER GAS TREATMENT SYSTEM PROJECT IN AN AMOUNT NOT TO EXCEED $84,671 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $8,467 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $93,138, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Digester Gas Treatment System project will replace the use of natural gas in the boiler operation with digester gas that is already produced at the Treatment Plant, and

WHEREAS, it will require the installation of a system that will remove hydrogen sulfide and moisture from the digester gas and require a new permit for boiler operation from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and

WHEREAS, on August 6, 2008, by Resolution No. 2008-445, the City Council approved an Agreement with Carollo Engineers, P.C. (Carollo) to prepare a final project design of the Digester Gas Treatment System project, and

WHEREAS, the final project design was completed and bids were solicited in October 2009, and

WHEREAS, the City opened bids for the construction of Digester Gas Treatment System project on January 12, 2010, and

WHEREAS, engineering support services are required during the construction of the project to provide technical support to the construction manager, and

WHEREAS, Carollo completed the final design of the project satisfactorily and has unique engineering knowledge of the project design, and

WHEREAS, City staff recommends approving an agreement with Carollo as this will allow for the engineering support during the construction period for the project, and

WHEREAS, City staff recommends approving an Agreement with Carollo as the City does not have the staffing level or subject matter expertise to provide engineering support during construction for the Digester Gas Treatment System project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. for engineering support during construction for Digester Gas Treatment System project in an amount not to exceed $84,671 for the identified scope of services, plus $8,467 for additional services (if needed), for a maximum total amount of $93,138.

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 May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-166

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DIGESTER GAS TREATMENT SYSTEM PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH GSE CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF $465,000 FOR THE DIGESTER GAS TREATMENT SYSTEM PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Digester Gas Treatment System Project and City staff recommends approval by the City Council, and

WHEREAS, the sole bid received for the Digester Gas Treatment System Project was opened at 11:00 a.m. on January 12, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $465,000 received from GSE Construction Company, Inc. be accepted as the lowest responsible bid and the contract be awarded to GSE Construction Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Digester Gas Treatment System Project, accepts the bid of GSE Construction Company, Inc. in the amount of $465,000, and awards GSE Construction Company, Inc. the contract for the Digester Gas Treatment System Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-167

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT AND AGREEMENT FOR DESIGN SUPPORT DURING CONTSTRUCTION FOR THE DIGESTER GAS TREATMENT SYSTEM PROJECT, INCLUDING CONTINGENCY AND CONSTRUCTION ADMINISTRATION, AND ENGINEERING/DESIGN/ADMINISTRATION SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $25,000, in order to fully fund the construction contract and agreement for design support during construction along with contingency, construction administration, and engineering/design/administration by City staff for the Digester Gas Treatment System Project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Gaseous Chlorine Conversion	6210-430-B006-6040	($25,000)
Digester Gas Treatment System	6210-480-B463-6010	$87,144
Digester Gas Treatment System	6210-480-B463-6040	($114,444)
Digester Gas Treatment System	6210-480-B463-6050	$21,500
Digester Gas Treatment System	6210-480-B463-6060	$30,800

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-168

A RESOLUTION ACCEPTING THE WORK BY ANGELO UTILITIES FOR THE "INSTALLATION OF TRAFFIC SIGNALS AT 4 LOCATIONS: CLAUS/SYLVAN, FLOYD/LINCOLN OAK, TULLY/STODDARD & SISK/VINTAGE FAIRE DRIVEWAY PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $727,230.92

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Installation of Traffic Signals at 4 Locations: Claus/Sylvan, Floyd/Lincoln Oak, Tully/Stoddard & Sisk/Vintage Faire Driveway Project has been completed by Angelo Utilities in accordance with the contract agreement dated November 12, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Traffic Signals at 4 Locations: Claus/Sylvan, Floyd/Lincoln Oak, Tully/Stoddard & Sisk/Vintage Faire Driveway Project" is hereby accepted as complete from said contractor Angelo Utilities, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $727,230.92 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-169

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED FEBRUARY 2010 FOR THE WELLHEAD TREATMENT WELL #3 - PCE PROJECT AS COMPLETE

WHEREAS, the City owns and operates domestic Well No. 3, located at the intersection of 8th and K Streets near downtown Modesto, and

WHEREAS, this well has been impacted by tetrachloroethylene (PCE) contamination, and

WHEREAS, PCE levels in the well water have reached the California Department of Public Health (CDPH) maximum contaminant level and the City believes that the levels will rise when pumping resumes due to a nearby groundwater PCE plume, and

WHEREAS, since the well contributes an important part to the water distribution system, City staff is seeking professional services to recommend the most efficient and cost effective method of removing PCE from the water, and

WHEREAS, on May 26, 2009, by Resolution No. 2009-221, the City Council approved an agreement with AECOM USA, Inc. to complete the 35% design services for the Wellhead Treatment Well #3-PCE project and summarize the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the PDR reviewed three methods of PCE removal, detailed proposed project elements, presented preliminary engineering drawings, and provided estimated cost and schedule projections for construction and life-cycle costs, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Wellhead Treatment Well #3-PCE project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated February 2010 for the Wellhead Treatment Well #3 - PCE project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-170

A RESOLUTION APPROVING AN AGREEMENT WITH AECOM TECHNICAL SERVICES, INC. FOR FINAL DESIGN SERVICES FOR WELLHEAD TREATMENT WELL #3 - PCE IN AN AMOUNT NOT TO EXCEED $105,582 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $10,558 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $116,140, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns and operates domestic Well No. 3, located at the intersection of 8th and K Streets near downtown Modesto, and

WHEREAS, this well has been impacted by tetrachloroethylene (PCE) contamination, and

WHEREAS, PCE levels in the well water have reached the California Department of Public Health (CDPH) maximum contaminant level and the City believes that the levels will rise when pumping resumes due to a nearby groundwater PCE plume, and

WHEREAS, since the well contributes an important part to the water distribution system, City staff is seeking professional services to recommend the most efficient and cost effective method of removing PCE from the water, and

WHEREAS, on May 26, 2009, by Resolution No. 2009-221, the City Council approved an agreement with AECOM USA, Inc. to complete the 35% design services for the Wellhead Treatment Well #3-PCE project and summarize the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the PDR reviewed three methods of PCE removal, detailed proposed project elements, presented preliminary engineering drawings, and provided estimated cost and schedule projections for construction and life-cycle costs, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Wellhead Treatment Well #3-PCE project, and

WHEREAS, this Final Design Services Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with AECOM Technical Services, Inc. as the City does not have the staffing level or subject matter expertise to complete the Final Design Services for the Wellhead Treatment Well #3-PCE project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with AECOM Technical Services, Inc. for final design services for the Wellhead Treatment Well #3-PCE project an amount not to exceed $105,582 for the identified scope of services, plus $10,558 for additional services (if needed), for a maximum total amount of $116,140.

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 May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-171

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): CITY OF MODESTO WATER WELL #3 PCE REMOVAL SYSTEM PROJECT

WHEREAS, on October 14, 2008, the City Council, by Resolution No. 2008-582, certified the Master Environmental Impact Report ("EIR") for the Modesto Urban Area General Plan (SCH No. 2007072023), and

WHEREAS, the City of Modesto proposes to construct PCE Removal facilities in conjunction with the existing City Water Well #3 as a adjunct to the existing water system identified in the Urban Area General Plan and in the General Plan Master EIR, and

WHEREAS, Section 15177 of the CEQA Guidelines, relating to reviewing subsequent projects within the scope of a Master EIR, states that the lead agency shall prepare an initial study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, whether any new additional mitigation measures or alternatives will be required in conjunction with the project, and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City's Utility Planning and Projects Department by Environmental Assessment Initial Study EA/UP&P 2010-06 reviewed the proposed Water Well #3 PCE Removal System project to determine whether the project is within the scope of the project covered by the General Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the

environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on April 1, 2010, the City caused to be published a 30-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on May 4, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which it **attached** hereto as **Exhibit "A"** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed project is of a type described in Chapter II of the Master EIR.

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 2007072023).

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. That the proposed subsequent project will have no additional significant effect that was not identified in the MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The criteria for currency of the Master EIR were reviewed and the Master EIR is current for all areas of the Initial Study.

6. The Initial Study, Environmental Assessment No. EA/UP&P 2010-06, provides the substantial evidence to support findings 1 through 5, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

INITIAL STUDY
EA/UP&P 2010-06

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
UP&P No. 2010-06

For the proposed

City of Modesto Water Well #3
PCE Removal System Project

Prepared by:
City of Modesto
Utility Planning and Projects Department

April 2010

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the City of Modesto Water Well #3 PCE Removal System Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

Project analysis is based on the Well 3 PCE Removal Preliminary Design Report dated February 2010 and prepared by AECOM for the City of Modesto.

II. PROJECT DESCRIPTION

A. Title: City of Modesto Water Well #3 PCE Removal System Project

B. Address/Location: 8th and K Streets, Modesto, California 95354, Stanislaus County. Figure 1 depicts the site location. The site is at Latitude 37.64 N, Longitude 121.00 W

C. Applicant: City of Modesto Department of Utility Planning and Projects

D. City Contact Person: Dean Phillips, Senior Civil Engineer

Project Manager: Dean Phillips, Senior Civil Engineer
Department: Utility Planning and Projects
Phone Number: 209-577-5260
E-mail address: dphillips@modestogov.com

E. Current General Plan Designation: Redevelopment Planned District

F. Current Zoning Classification(s): M-1, Light Industrial

G. Location: The proposed project is within the existing City of Modesto Well #3 Site located at the west corner of the intersection of 8th and K Streets in downtown Modesto, Stanislaus County, California.

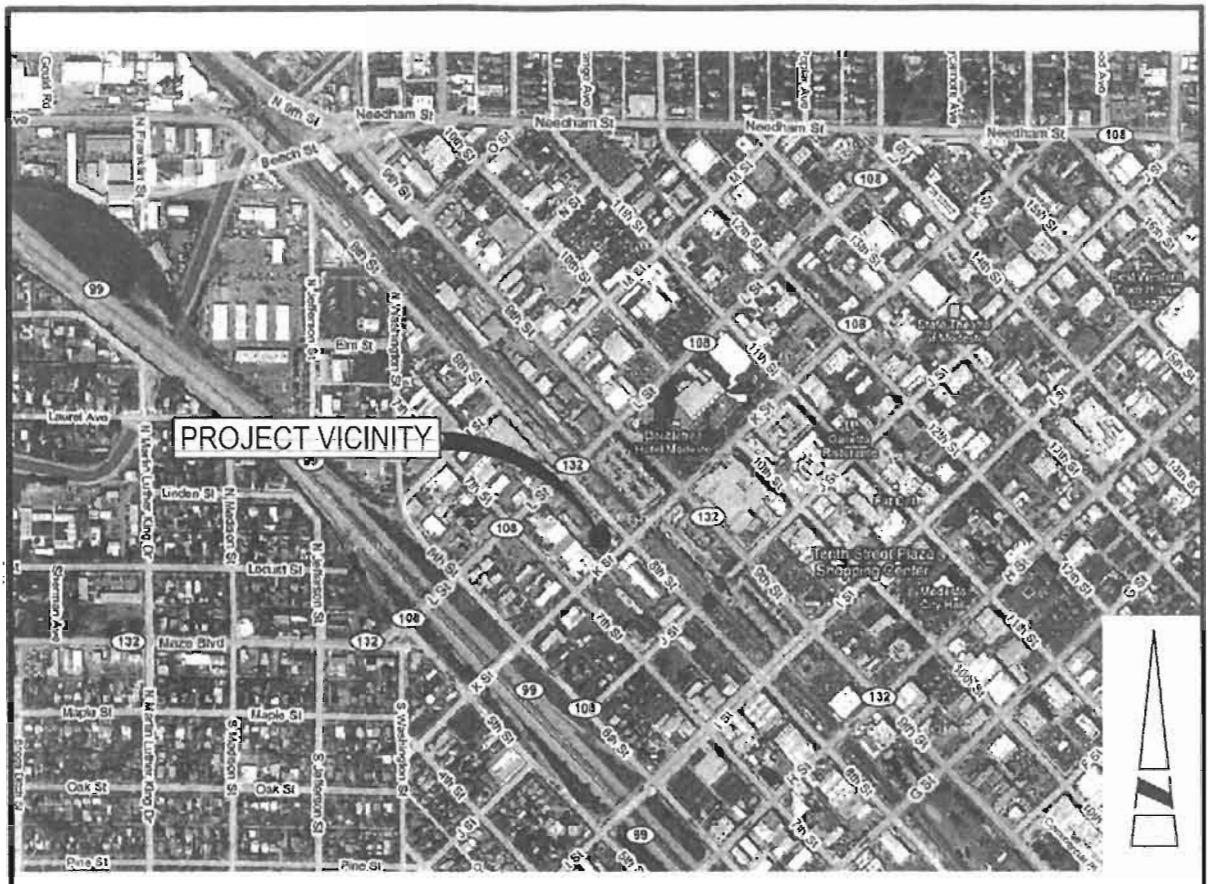
H. Surrounding Land Uses: The project is surrounded by commercial-industrial uses on all sides.

I. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

Addition of PCE treatment/removal equipment to existing City domestic water well site #3. Water from well #3 will be treated using an activated carbon process. This Process will entail the installation of two cylindrical treatment vessels, each approximately 12 feet in diameter and 15 feet in height, each containing 20,000 pounds of granulated activated carbon (GAC). Space will be provided for future installation of two additional vessels and the project includes this potential future expansion. The vessels will be installed on concrete pads measuring 15 feet by 35 feet for each pair of vessels. In addition, an 8' x 8' sodium hypochlorite storage building will be constructed and the existing chlorine enclosure removed, and the site will be enclosed by a 6' high decorative masonry wall. Existing chain link fencing and gate will be removed. The setback area adjacent to the street will be landscaped. Figure 2 presents the site plan.

J. Other Public Agencies Whose Approval is Required:

- California Department of Public Health



NOT TO SCALE

AECOM AECOM USA, Inc. 1360 E. Spruce Avenue, Suite 101 Fresno, California 93720 T 559.448.8222 F 559.448.8233 www.aecom.com	CITY OF MODESTO WELL 3 PDR VICINITY MAP	BEC PROJECT NO. 60100737	FIGURE 1-1

Figure 1 – Location of Project

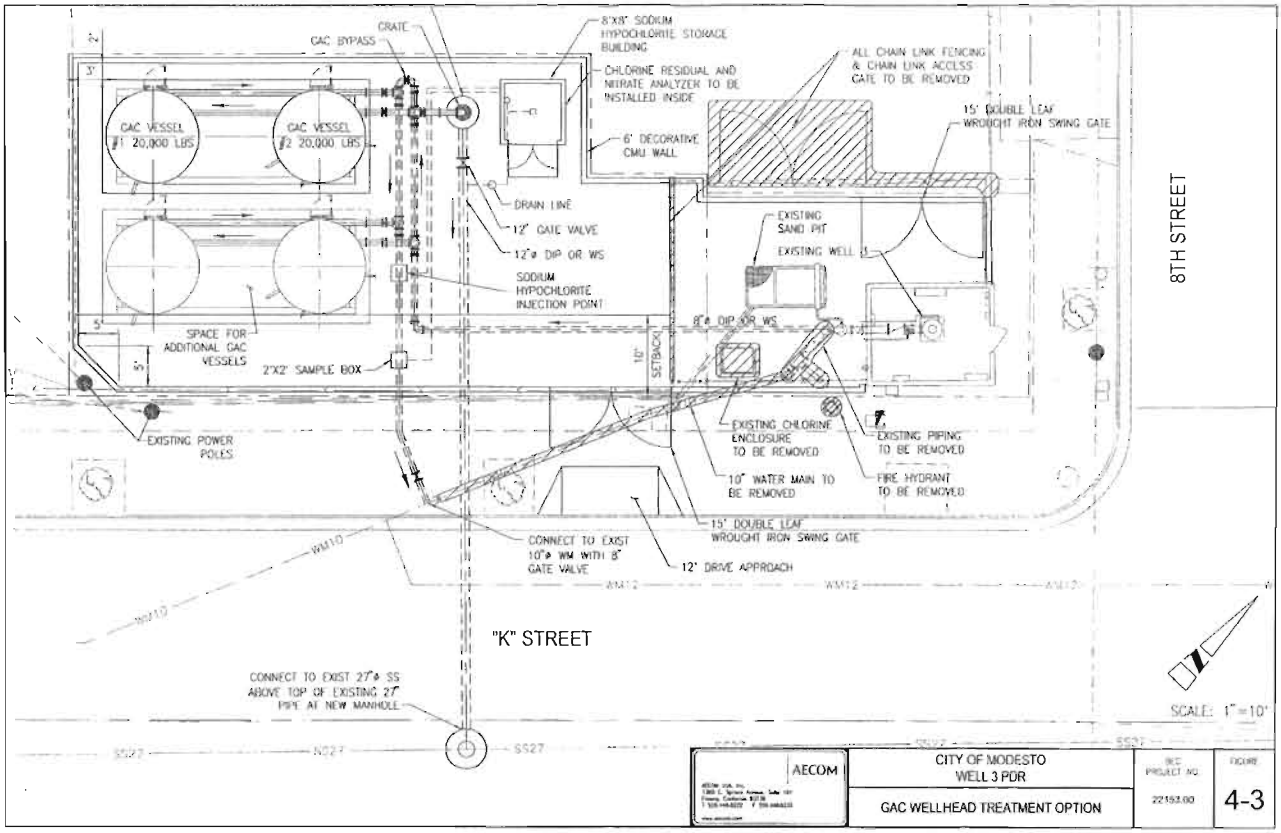


Figure 2 – Site Plan

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ____ **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager—Dean Phillips	Senior Civil Engineer Title	3/29/2010 Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

Discussion:

(1) The lead agency for the project is the City of Modesto Department of Utility Planning and Projects

(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and are applied to this project where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts are mitigated to a less-than-significant level using MEIR mitigations only.

(3) No Federal, State, regional, or Stanislaus County regulations have changed in a manner that is less restrictive and would not offer the same level of protection assumed under the Master EIR.

(4) No new information has been identified regarding the known or potential presence of significant resources. The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site.

(5) The project is within the City Limits of the City of Modesto.

(6) Development of the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

Discussion:

(1) The General Plan Master EIR was certified October 2008

(2) The project is a part of the operation of the City of Modesto Water system.

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.

(5) All policies and mitigation of the General Plan Master EIR which are applicable to the project remain in effect and will be applied to the project.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

TRAFFIC AND CIRCULATION				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☒	☐	☐
(2)	The proposed project would substantially increase hazards due to a design feature, such as sharp curves, or the development of incompatible uses in close proximity to one another.	☒	☐	☐
(3)	The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☒	☐	☐
(5)	The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☒	☐	☐
(6)	The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☒	☐	☐
(7)	The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.	☒	☐	☐

Discussion:

(1-7) The proposed project is addition of equipment within the confines of an existing well site. The project will have no effect on the generation of traffic or the operation of transportation facilities.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes **AQ-42, 44, and 46-49** from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

DEGRADATION OF AIR QUALITY

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☒	☐	☐
(2)	The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☒	☐	☐
(3)	The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☒	☐	☐
(4)	The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☒	☐	☐
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☒	☐	☐

Discussion:

(1) The project is consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.

(2) The project will incorporate the best management practices established by the SJVAPCD for CO, ROG, NOx, PM10, and PM2.5 as applicable.

(3) The project will be in compliance with all air quality policies in the Modesto Urban Area General Plan.

(4) The proposed project is within a commercial/industrial district and is not in proximity to any sensitive receptors. The project does not include any new pollutant-emitting components.

(5) The proposed project is within a commercial/industrial district and is not in proximity to any sensitive receptors. The project does not include any odor-emitting components.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes **N-3** from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects is based on the following thresholds. Project-specific effects will be less than significant unless:

GENERATION OF NOISE				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☒	☐	☐
(2)	The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☒	☐	☐

(3)	The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR.	☒	☐	☐

Discussion:

(1) The proposed project will result in no change to the noise levels or hours of operation of the existing facility.

(2) The project will comply with the noise policies of, and be consistent with, the Modesto Urban Area General Plan.

(3) The proposed project will result in no change to the noise levels or hours of operation of the existing facility.

(4) The proposed project will result in no change to the noise levels or hours of operation of the existing facility. Construction of the project will be in compliance with the City of Modesto Noise Ordinance and policies.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new

mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

SIGNIFICANT EFFECTS IDENTIFIED IN THE MASTER EIR

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☒	☐	☐
(2)	The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☒	☐	☐
(3)	The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☒	☐	☐
(4)	The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☒	☐	☐

Discussion:

(1-4) The proposed project is addition of equipment within the confines of an existing well site. The project will have no effect, either directly or indirectly, on agricultural land.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☒	☐	☐
(2)	Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☒	☐	☐
(3)	The proposed project would deplete groundwater supplies to a greater	☒	☐	☐

degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will have no effect on water demand nor will it change the rate at which water is withdrawn from groundwater sources.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR SANITARY SEWER SERVICES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the policies in the Modesto Urban Area General Plan.	☒	☐	☐
(2)	The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☒	☐	☐
(3)	The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☒	☐	☐

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will have no effect on water demand or wastewater generation.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☒	☐	☐
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☒	☐	☐
(3)	The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☒	☐	☐
(4)	The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☒	☐	☐
(5)	Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☒	☐	☐
(6)	The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☒	☐	☐

Discussion:

(1) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project is in the context of an existing developed site within a fully urbanized commercial-industrial district. The project will not entail loss of sensitive wildlife and plant habitat.

(2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project is in the context of an existing developed site within a fully urbanized commercial-industrial district. The project will not affect any candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.

(3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project is in the context of an existing developed site within a fully urbanized commercial-industrial district. No wetland will be affected.

(4) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project is in the context of an existing developed site within a fully urbanized commercial-industrial district. The project will not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

(5) The project will not conflict with local policies or ordinances protecting biological resources.

(6) No adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan is applicable to the site.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would modify a historic resource, resulting in a substantial adverse change in its significance or would demolish a listed or eligible historic resource.	☒	☐	☐
(3)	The proposed project would modify or demolish a structure more than 50 years in age.	☒	☐	☐
(4)	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.	☒	☐	☐
(5)	The project site is in a riparian zone (see Figure V-7-1 in the MEIR), where archaeological resources are most likely to be discovered, or is otherwise located in an area of high archaeological sensitivity.	☒	☐	☐

Discussion:

(1) The proposed project is not inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.

(2-3) The project will not involve demolition, modification, or removal of any building or structure.

(4) No listed/eligible cultural resources exist within the project site. No excavation to depths greater than existing foundations, roads and/or trenches in the immediate vicinity is proposed as a part of this project.

(5) The project will not conflict with local policies or ordinances protecting cultural resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR STORM DRAINAGE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☒	☐	☐
(3)	The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☒	☐	☐

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will have no effect on storm water runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☒	☐	☐
(3)	The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☒	☐	☐
(4)	The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☒	☐	☐
(5)	The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☒	☐	☐
(6)	The proposed project would violate water quality standards or waste discharge requirements.	☒	☐	☐
(7)	The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☒	☐	☐
(8)	The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☒	☐	☐

Discussion:

(1) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will have no effect on storm water runoff.

(2) Development of the proposed project will comply with the regulatory requirements of the federal Clean Water Act and the State Porter-Cologne Act as applicable.

(3) Housing is not a part of the proposed project.

(4) No part of the proposed project is within the 100-year flood hazard area.

(5-8) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will have no effect on storm water runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

INCREASED DEMAND FOR PARKS AND OPEN SPACE				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would eliminate parks or open space.	☒	☐	☐
(3)	The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☒	☐	☐

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on parks or their use.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be

incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR SCHOOLS

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on schools.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR POLICE SERVICES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on demand for police services.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

INCREASED DEMAND FOR FIRE SERVICES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☒	☐	☐
(3)	The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on demand for fire services.

(3) The proposed project is entirely within the confines of the Modesto City Limits and will have no effect on adjoining fire protection districts

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

GENERATION OF SOLID WASTE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the solid waster policies in the Urban Area General Plan.	☒	☐	☐
(2)	The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on generation of solid waste.

6. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes **HM-3, 5, 6, 9, and 17** from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

GENERATION OF HAZARDOUS MATERIALS		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☒	☐	☐
(3)	The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☒	☐	☐

(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☒	☐	☐

Discussion:

(1) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site. The project will comply with all policies of the General Plan related to hazardous materials.

(2) The proposed Project is an existing well site and will continue to use chlorinating agents in conformance with applicable State law and pursuant to permit. The Project will remove PCE from groundwater. PCE laden carbon substrate will be returned for recycling by the manufacturer.

(3) The proposed project will withdraw and treat PCE contaminated groundwater. The site itself is not listed pursuant to Government Code Section 65962.5. Construction and operation of the project will not create any new hazard to the public or the environment.

(4) The proposed project will not be constructed on a contaminated site not known to the State of California as of March 2008.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

GEOLOGY, SOILS, AND MINERAL RESOURCES

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on soils or mineral resources.

(2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site, and will have no effect on mineral resources. The proposed project will not expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; is not located on an expansive soil; will not result in the loss of topsoil; and does not require disposal of wastewater.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

ENERGY

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☒	☐	☐

Discussion:

(1-2) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site and is a part of the operation of the existing domestic water supply system.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

EFFECTS ON VISUAL RESOURCES				
		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☒	☐	☐

(3)	The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☒	☐	☐

Discussion:

(1) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site and within an existing commercial-industrial district. The development of the site and its visual characteristics will be consistent with the surrounding uses.

(2-3) The proposed project site is not in proximity to any riverside area or park.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (**none**) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

LAND USE AND PLANNING

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☒	☐	☐
(3)	The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☒	☐	☐
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☒	☐	☐

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site and within an existing commercial-industrial district. No change to land use is proposed or will occur as a result of the project.

(4) No habitat conservation plan or natural community conservation plan is applicable to the project site.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes **CL-3 and 6** from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

CLIMATE CHANGE

		No	Additional Mitigation needed	Significant Impact with Mitigation
(1)	The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☒	☐	☐
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☒	☐	☐
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☒	☐	☐

Discussion:

(1-3) The proposed project is addition of equipment for the removal of PCE within the confines of an existing well site and within an existing commercial-industrial district. No change to automobile trips or CO_2 emissions is proposed or will occur as a result of the project.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

No new or additional mitigation beyond that found in the Maser EIR is required. For reference, the following measures from the MEIR are applicable to the project:

Degradation of Air Quality:

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. (General Plan Policy VII-H.2[kk])

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. (General Plan Policy VII-H.2[mm])

AQ-46: When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. (General Plan Policy VII-H.2[oo])

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (General Plan Policy VII-H.2[pp])

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[qq])

AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])

Generation of Noise:

N-3: The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following:
Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and

pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
Equipment that is quieter than standard equipment should be utilized.
Haul routes that affect the fewest number of people should be selected. (UAGP VIIG. 3[a])

Generation of Hazardous Materials:

HM-3: The City shall comply with all existing federal and state laws which regulate the generation, transportation, storage, and disposal of hazardous materials. (UAGP Policy V-M.2[a])

HM-5: In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant. The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.
If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel. In accordance with [Occupational Safety and Health Administration] requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (UAGP Policy V-M.2[c])

HM-6: For each specific project that would generate hazardous waste, the City shall require as a condition of building permit and/or business license approval that the project sponsor prepare a hazardous material transportation program. The transportation program shall identify the location of the new facility or use and designate either (1) specific routes to be used for transport of hazardous materials and wastes to and from the facility, or (2) specific routes to be avoided during transport of hazardous materials and wastes to and from the facility. Routes would be selected to minimize proximity to sensitive receptors to the greatest practical degree. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous materials transportation program or, working with the applicant, modify it to the satisfaction of both parties. (UAGP Policy V-M.2[d])

HM-9: Prior to the issuance of all building permits, the City shall identify the site in relation to all CERCLIS sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities shall conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program would be developed and implemented as in [UAGP Policy V-M.2(c)]. (UAGP Policy V-M.2[e])

HM-17: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State

Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V-E.3[h])

Climate Change:

CL-3: Removal of street trees shall be strenuously discouraged unless they are badly diseased and have become a threat to public safety. If a tree must be removed, it should be replaced no later than the end of the next planting season with a large-canopy species. (UAGP Policy VII-H.2[c]) [This will be implemented through review of individual development projects.]

CL-6: The goal of the street tree maintenance program is to maintain trees in the best possible health by ensuring that newly planted trees are cared for in such a way as to prevent or minimize sidewalk and street damage (including, but not limited to, deep watering until roots are well established, proper fertilizers, root barriers, and structured soils), pruning to remove mistletoe as often as necessary, pruning to prevent the tree from leaning, and using measures to control disease. (UAGP Policy VII-I.1[d])

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-172

A RESOLUTION AUTHORIZING CHANGE ORDERS FOR THE PROJECT TITLED "2007-2008 PAVEMENT REHABILITATION PROGRAM, H STREET RECONSTRUCTION FROM 17TH ST. TO SCENIC AVE. AND BURNEY ST. INTERSECTION" PROJECT IN THE AMOUNT OF $31,650.70

WHEREAS, the City Council, on May 5, 2009, by Resolution No. 2009-202, awarded a $824,466.20 contract to George Reed, Inc., to construct the 2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work has been estimated to be $31,650.70, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $82,462.20,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes change orders in the amount of $31,650.70 for the 2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-173

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT AND CHANGE ORDER EXPENSES ADMINISTERED AND SUPPORTED BY CITY STAFF FOR THE 2007-2008 PAVEMENT REHABILITATION PROGRAM, H STREET RECONSTRUCTION FROM 17TH ST. TO SCENIC AVE. AND BURNEY ST. INTERSECTION PROJECT

WHEREAS, due to lower award costs, the Federal Regional Surface Transportation Program (RSTP) grant funds were deobligated, and

WHEREAS, a budgetary transaction is necessary to reduce departmental revenues in the amount of $594,021 and reduce offsetting expenditures for the 2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project, and

WHEREAS, certain budgetary transactions are necessary in the amount of $33,845, in order to fully fund the shortfall of City match funds for the construction contract and change order expenses administered by City staff for the 2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Capital Grants-Gas

REVENUES:		Increase/(Decrease)
Federal RSTP Grant	2370-430-H151-3532	($594,021)
Gas Tax Reserves	0700-800-800-8003	33,845

EXPENDITURES:		Increase/(Decrease)
Fed Funded Pvmt H I 9th Streets	2370-430-H151-6040	($531,923)
Fed Funded Pvmt H I 9th Streets	2370-430-H151-6060	($31,672)
Fed Funded Pvmt H I 9th Streets	2370-430-H151-6010	$97
Fed Funded Pvmt H I 9th Streets	2370-430-H151-6050	$3,323

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-174

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT AND CHANGE ORDER EXPENSES ADMINISTERED AND SUPPORTED BY CITY STAFF FOR THE H STREET SEWER CAPACITY REHAB PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $6,100, in order to fully fund the shortfall of wastewater funded share of costs for the construction contract and change order expenses administered by City staff for H Street Sewer Capacity Rehab Project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Wastewater Reserves	6210-800-8000-8003	($6,100)
H Street Sewer Capacity Rehab	6210-480-B016-6060	($4,781)
H Street Sewer Capacity Rehab	6210-480-B016-6010	$65
H Street Sewer Capacity Rehab	6210-480-B016-6050	10,816

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-175

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "2007-2008 PAVEMENT REHABILITATION PROGRAM, H STREET RECONSTRUCTION FROM 17TH ST. TO SCENIC AVE. AND BURNEY ST. INTERSECTION" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $938,295.52

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the project titled "2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project" has been completed by George Reed, Inc., in accordance with the contract agreement dated May 5, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2007-2008 Pavement Rehabilitation Program, H Street Reconstruction from 17th St. to Scenic Ave. and Burney St. Intersection Project" is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $938,295.52 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-176

A RESOLUTION ACCEPTING THE WORK BY D.A. WOODS CONSTRUCTION FOR THE "EL RIO SEWER REPLACEMENT PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $998,551.82

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the El Rio Sewer Replacement Project has been completed by D.A. Woods Construction in accordance with the contract agreement dated July 14, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "El Rio Sewer Replacement Project" is hereby accepted as complete from said contractor D.A. Woods Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $998,551.82 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-177

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A UTILITY TRUCK WITH A CRANE FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER QUALITY CONTROL SERVICES DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO WONDRIES FORD, ALHAMBRA, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $68,114

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the utility truck with crane is a replacement for the Public Works Department, Wastewater Quality Control Services Division, through the Fleet Services Division and were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the California Air Resources Board (CARB) requires a progressive replacement program that removes older diesel trucks from service. This truck falls under the City's compliance program approved by the CARB and has reached the end of its useful life. The current truck does not meet CARB emission requirements and must be replaced, and

WHEREAS, the Purchasing Division issued RFB No. 0910-19, for the purchase of a utility truck with crane to twenty-four (24) prospective bidders, one of which was a local vendor, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-four (24) prospective bidders, seven (7) companies chose to respond, one of which was a local vendor. All companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a utility truck with crane to Wondries Ford, Alhambra, CA, for the total estimated cost of $68,114, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a utility truck with crane to Wondries Ford, Alhambra, CA, for the Public Works Department, Wastewater Quality Control Services Division, through Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-5518 for $68,114,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a utility truck with crane for the Public Works Department, Wastewater Quality Control Services Division, through the Fleet Services Division, to Wondries Ford, Alhambra, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $68,114.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-178

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A CRANE TRUCK FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER QUALITY CONTROL SERVICES DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO ALTEC INDUSTRIES, DIXON, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $185,686

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the crane truck is a replacement for the Public Works Department, Wastewater Quality Control Services Division, through the Fleet Services Division, and was included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the California Air Resources Board (CARB) requires a progressive replacement program that removes older diesel trucks from service. This truck falls under the City's compliance program approved by the CARB and has reached the end of its useful life. The current truck does not meet CARB emission requirements and must be replaced, and

WHEREAS, the Purchasing Division issued RFB No. 0910-20, for the purchase of a crane truck to twenty-one (21) prospective bidders, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-one (21) prospective bidders, six (6) companies chose to respond, none of which were a local companies. All companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a crane truck to Altec Industries, Dixon, CA, for the total estimated cost of $185,686, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of a crane truck to Altec Industries, Dixon, CA, for the Public Works Department, Wastewater Quality Control Services Division, through Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 7210-480-5814-5519 $185,686,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of a crane truck for the Public Works Department, Wastewater Quality Control Services Division, through the Fleet Services Division, to Altec Industries, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $185,686.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-179

A RESOLUTION ACCEPTING THE ANTI-DRUG ABUSE ENFORCEMENT TEAM RECOVERY ACT PROGRAM GRANT, IN THE AMOUNT OF $313,492, FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY, TO COMBAT MAJOR DRUG TRAFFICKING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Modesto Police Department applied for funding from the California Emergency Management Agency (Cal EMA) for the Anti-Drug Abuse (ADA) Enforcement Team Recovery Act Program, and

WHEREAS, the ADA Enforcement Team Recovery Act Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this Program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, this funding will add an additional task force member (a Police Officer from the City of Oakdale), in addition to providing essential training and equipment needed by the task force, and

WHEREAS, the SDEA is responsible for compliance with all regulations pertaining to the Cal EMA grant, including all reporting requirements, and

WHEREAS, the City of Modesto is responsible for the financial reporting requirements (see budget adjustment **attached**), and

WHEREAS, there is no match required for this grant, and

WHEREAS, the term of the ADA Enforcement Team Recovery Act Program is from March 1, 2010, through February 28, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the the Anti-Drug Abuse Enforcement Team Recovery Act Program Grant, in the amount of $313,492, from the California Emergency Management Agency.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Police Department
Fund Title: 8850 - SDEA

Council Action Date:
Resolution Number:
FY: 09-10
Transfer No:

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					Anti-Drug Enforcement Team Recovery Act Program
MY-8850-190-2104-3490			$313,492	$313,492	State Grants
APPROPRIATIONS					
FROM					
TO					
MY_8850-190-2104-0207	2104-C		$20,799	$20,799	Training Expenses
MY-8850-190-2104-0240	2104-C		$253,993	$253,993	Intergovernmental Services
MY-8850-190-2104-0350	2104-C		$9,700	$9,700	Computer Equipment <$5,000
MY-8850-190-2104-0352	2104-C		$4,000	$4,000	Video Equipment <$5,000
MY-8850-190-2104-5700	2104-C		$25,000	$25,000	Non-CIP Vehicle
			$313,492		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget adjustment is being made to: 1) Budget estimated revenue received from the award of a State Grant in the amount of $313,492 from the Anti-Drug Abuse Enforcement Team Recovery Act Program and; 2) Program offsetting expenses as outlined in the grant program document. These actions will officially establish a new Multi-Year Operating Organization for Fund 8850 - Stanislaus Drug Enforcement Agency in the FY 2009-10 Budget.

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		
DIVISION CAPTAIN		
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)		

TRANSFER NO.: _____

BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-180

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING AND MULTI-YEAR BUDGETS TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF $313,492, FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY, TO COMBAT MAJOR DRUG TRAFFICKING

WHEREAS, the Modesto Police Department applied for funding from the California Emergency Management Agency (Cal EMA) for the Anti-Drug Abuse (ADA) Enforcement Team Recovery Act Program, and

WHEREAS, the ADA Enforcement Team Recovery Act Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, this funding will add an additional task force member (a Police Officer from the City of Oakdale), in addition to providing essential training and equipment needed by the task force, and

WHEREAS, the SDEA is responsible for compliance with all regulations pertaining to the Cal EMA grant, including all reporting requirements, and

WHEREAS, the City of Modesto is responsible for the financial reporting requirements, and

WHEREAS, there is no match required for this grant, and

WHEREAS, the term of the ADA Enforcement Team Recovery Act program is from March 1, 2010, through February 28, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Operating and Multi-Year Budgets are shown on the Budget Adjustment Form **attached**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Police Department
Council Action Date:
Resolution Number:
FY: 09-10
Fund Title: 8850 - SDEA
Transfer No.:

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					Anti-Drug Enforcement Team Recovery Act Program
MY-8850-190-2104-3490			$313,492	$313,492	State Grants
APPROPRIATIONS					
FROM					
TO					
MY_8850-190-2104-0207	2104-C		$20,799	$20,799	Training Expenses
MY-8850-190-2104-0240	2104-C		$253,993	$253,993	Intergovernmental Services
MY-8850-190-2104-0350	2104-C		$9,700	$9,700	Computer Equipment <$5,000
MY-8850-190-2104-0352	2104-C		$4,000	$4,000	Video Equipment <$5,000
MY-8850-190-2104-5700	2104-C		$25,000	$25,000	Non-CIP Vehicle
			$313,492		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget adjustment is being made to: 1) Budget estimated revenue received from the award of a State Grant in the amount of $313,492 from the Anti-Drug Abuse Enforcement Team Recovery Act Program and; 2) Program offsetting expenses as outlined in the grant program document. These actions will officially establish a new Multi-Year Operating Organization for Fund 8850 - Stanislaus Drug Enforcement Agency in the FY 2009-10 Budget.

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		
DIVISION CAPTAIN		
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)		

TRANSFER NO.: _____

BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-181

A RESOLUTION ACCEPTING THE WORK BY MODESTO EXECUTIVE ELECTRIC, INC. FOR THE "PARK LIGHTING AT 6 SITES PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $254,679.76

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the "Park Lighting at 6 Sites Project" has been completed by Modesto Executive Electric, Inc., in accordance with the contract agreement dated September 22, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Park Lighting at 6 Sites Project" is hereby accepted as complete from said contractor Modesto Executive Electric, Inc.

BE IT FURTHER RESOLVED that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $254,679.76 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-182

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH NELLIE M. SANDERS, FOR A 0.03-ACRE (1,322 SQ. FT.) PARCEL IN FEE, AND A 0.03-ACRE (1,350 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3324 ROSELLE AVENUE (APN 085-001-021), IN THE AMOUNT OF $27,541, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a widening project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from 2 lanes to 4 lanes, to include curb, gutter, sidewalks, median, landscaping and street lighting, to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Nellie M. Sanders, for a 0.03-acre (1,322 sq. ft.) parcel in fee, and a 0.03-acre (1,350 sq. ft.) portion for a Temporary Construction Easement of a parcel located at 3324 Roselle Avenue (APN 085-001-021), in the amount of $27,541, for the Roselle Avenue Widening Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-183

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3324 ROSELLE AVENUE, OWNED BY NELLIE M. SANDERS, (APN 085-001-021 TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.03-acre (1,322 sq. ft.) portion of a 3.1-acre parcel of land located on Roselle Avenue within the project area, owned by Nellie M. Sanders (APN 085-001-021), to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue, owned by Nellie M. Sanders, a surviving joint tenant, (APN 085-001-021) to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-184

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH BILLY J. OSBORN AND JUDY A. OSBORN, FOR A 0.03-ACRE (1,322 SQ. FT.) PARCEL IN FEE, AND A 0.03-ACRE (1,102 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3342 ROSELLE AVENUE (APN 085-001-037), IN THE AMOUNT OF $24,546, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a widening project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from 2 lanes to 4 lanes, to include curb, gutter, sidewalks, median, landscaping and street lighting, to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Billy J. Osborn and Judy A. Osborn, for a 0.03-acre (1,322 sq. ft.) parcel in fee, and a 0.03-acre (1,102 sq. ft.) portion for a Temporary Construction Easement of a parcel located at 3342 Roselle Avenue (APN 085-001-037), in the amount of $24,546, for the Roselle Avenue Widening Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-185

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3342 ROSELLE AVENUE, OWNED BY BILLY J. OSBORN AND JUDY A. OSBORN, (APN 085-001-037) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.03-acre (1,322 sq. ft.) portion of a 3.1-acre parcel of land located on Roselle Avenue within the project area, owned by Billy J. Osborn and Judy A. Osborn (APN 085-001-037), to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue, owned by Billy J. Osborn and Judy A. Osborn, husband and wife, (APN 085-001-037) to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-186

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH DARRELL W. WRIGHT AND CAROL WRIGHT, FOR A 0.01-ACRE (322 SQ. FT.) PARCEL IN FEE, AND A 0.02-ACRE (795 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 2906 ROSELLE AVENUE (APN 085-050-002), IN THE AMOUNT OF $3,355, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a widening project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from 2 lanes to 4 lanes, to include curb, gutter, sidewalks, median, landscaping and street lighting, to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Darrell W. Wright and Carol Wright, for a 0.01-acre (322 sq. ft.) parcel in fee, and a 0.02-acre (795 sq. ft.) portion for a Temporary Construction Easement of a parcel located at 2906 Roselle Avenue (APN 085-050-002), in the amount of $3,355, for the Roselle Avenue Widening Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-187

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 2906 ROSELLE AVENUE, OWNED BY DARRELL W. WRIGHT AND CAROL WRIGHT, (APN 085-050-002) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.01-acre (322 sq. ft.) portion of a 1.0-acre parcel of land located on Roselle Avenue within the project area, owned by Darrell W. Wright and Carol Wright (APN 085-050-002), to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue, owned by Darrell W. Wright and Carol Wright, husband and wife, (APN 085-050-002) to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-188

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH CENTRAL CALIFORNIA DEVELOPMENT, LLC, FOR A 0.05-ACRE (2,144 SQ. FT.) PARCEL IN FEE, AND A 0.04-ACRE (1,787 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3220 ROSELLE AVENUE (APN 085-001-047) IN THE AMOUNT OF $13,682, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a widening project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from 2 lanes to 4 lanes, to include curb, gutter, sidewalks, median, landscaping and street lighting, to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Central California Development, LLC, for a 0.05-acre (2,144 sq. ft.) parcel in fee, and a 0.04-acre (1,787 sq. ft.) portion for a Temporary Construction Easement of a parcel located at 3220 Roselle Avenue (APN 085-001-047) in the amount of $13,682, for the Roselle Avenue Widening Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-189

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3220 ROSELLE AVENUE, OWNED BY CENTRAL CALIFORNIA DEVELOPMENT, LLC, (APN 085-001-047) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.05-acre (2,144 sq. ft.) portion of a 8.43-acre parcel of land located on Roselle Avenue within the project area, owned by Central California Development, LLC, (APN 085-001-047), to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue, owned by Central California Development, LLC, (APN 085-001-047) to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-190

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): ZONING CODE AMENDMENT TO IMPLEMENT THE NEIGHBORHOOD COMPATIBILITY GUIDELINES (INTIATED BY CITY OF MODESTO)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, City of Modesto has initiated the proposed Zoning Code amendment to implement the Neighborhood Compatibility 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 City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2010-01 ("Initial Study") reviewed the proposed Zoning Code amendment to implement the Neighborhood Compatibility Guidelines to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and

further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on April 14, 2010, 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 May 11, 2010 , 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 Zoning Code amendment to implement the Neighborhood Compatibility Guidelines, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-01

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010 - 01

For the proposed:

CODE-09-002 Code Amendment to Implement the Neighborhood Compatibility Guidelines

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

1-25-10

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether CODE-09-002, Code Amendment to Implement the Neighborhood Compatibility Guidelines is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: CODE-09-002, Code Amendment to Implement the Neighborhood Compatibility Guidelines

B. Address or Location: City of Modesto, 1010 Tenth Street, Modesto, CA 95353

C. Applicant: City of Modesto

D. City Contact Person: Paul Liu, Senior Planner

Project Manager: Paul Liu
Department: Community and Economic Development Department
Phone Number: 209 577 5282
E-mail address: pliu@modestogov.com

E. Current General Plan Designation(s): Not Applicable

F. Current Zoning Classification(s): Not Applicable

G. Surrounding Land Uses:
North: Not Applicable
South: Not Applicable
East: Not Applicable
West: Not Applicable

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

In recent years, there have been increasing concerns about second-story projects to homes located in established neighborhoods to ensure that privacy and massing issues are addressed relating to immediately adjacent residences. There have also been concerns expressed the scale and architectural compatibility of some of these second-story projects.

The Neighborhood Compatibility Guidelines was prepared to address the compatibility of new homes and additions to homes with the surrounding homes in existing neighborhoods. This effort focused primarily on providing more effective guidance for second story review, and secondarily upon lot pattern and neighborhood layout issues. The Neighborhood Compatibility Guidelines was adopted by the City Council on April 28, 2009. In addition to approving the Guidelines, the City Council directed staff to prepare the appropriate Code amendments to implement the Guidelines.

A summary of the changes to the Zoning Code are as follows:

1. Clarify and update existing second-story review provisions to reflect the new role of these Guidelines in the review process.
2. Modify the provisions in the residential zoning districts to indicate the required compliance to the Guidelines where applicable in the review process.
3. Modify setback requirements for side and rear yards to provide a greater setback for second story portion of residential buildings to address scale and massing issues and to establish appropriate setbacks.
4. Authorize larger lot size in the Low Density Residential District where necessary to maintain "compatibility" with existing lots in the neighborhood in accordance with the Guidelines.
5. Require public notification for the review of second story projects.
6. Miscellaneous revisions and clarifications to the code.

I. Other Public Agencies Whose Approval is Required:
None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:

a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Paul Lin — Project Manager

S. Tanner — Title

3-29-10 — Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

Discussion:

(5) The proposed code amendment does not involve a development project. However, applicable future development projects subject to the code amendment will be within the planning area.

(6) Applicable future development projects will be subject to appropriate mitigation measures in the Master EIR.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-28 to V-1-31) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-28).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-24. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☐	☐	☐	☒
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☐	☐	☐	☒
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☐	☐	☐	☒
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☐	☐	☐	☒
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on traffic generation assumptions.

(2) The project will have no effect on the level of service standard established by the county congestion management.

(3) The project will have no effect on traffic and circulation issues.

(4) The project will have no effect on emergency response time.

(5) The project will have no effect on parking requirements.

(6) The project will have no effect on alternative transportation policies.

(7) The project will have no effect on automobile vehicle miles traveled.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-26).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-26).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-26).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-14 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☐	☐	☐	☒
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☐	☐	☐	☒
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☐	☐	☐	☒
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☐	☐	☐	☒
5) The proposed project would create objectionable odors affecting a substantial number of people.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on emissions thresholds.

(2) The project will have no effect on best management practices established by the SJVAPCD.

(3) The project will have no effect on air quality policies.

(4) The project will have no effect on sensitive receptors.

(5) The project will not result in the creation of objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-11, and Figure V-3-2 and Table 3-6, pages V-3-19 and V-3-20).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-12 through V-3-16 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☐	☐	☒
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on noise level standards.

(2) The project will have no effect on noise policies.

(3) The project will not result in an increase of ambient noise levels.

(4) The project will not result in a temporary or periodic increase of ambient noise levels.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☐	☐	☐	☒
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☐	☐	☐	☒
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☐	☐	☐	☒
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on agricultural land policies.

(2) The project will have no effect on development outside the Modesto planning area.

(3) The project will have no effect on land zoned for agricultural use or with Williamson Act contract.

(4) The project will have no effect on the conversion of farmland to non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	☒
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☐	☐	☐	☒
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on the water supply.

(2) The project will have no effect on water demand.

(3) The project will have no effect on groundwater supply.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-2 through V-6-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☐	☐	☐	☒
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on wastewater policies.

(2) The project will have no effect on sewage flows.

(3) The project will have no effect on wastewater capacity.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-18 through V-7-25 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☐	☐	☐	☒
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on wildlife and plant habitat policies.

(2) The project will not result in significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.

(3) The project will have no effect on federally protected wetlands.

(4) The project will have no effect on native resident or migratory fish or wildlife species.

(5) The project will have no effect on local policies or ordinances protecting biological resources.

(6) The project will have no effect on local, regional, or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-15 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	☐	☐	☐	☒
3) The proposed project would modify or demolish a structure more than 50 years in age.	☐	☐	☐	☒
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	☐	☐	☐	☒
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on archaeological/historical resource policies.

(2) The project will have no effect on historical buildings or landmarks.

(3) The project will have no effect on structures.

(4) The project will have no effect on cultural resources.

(5) The project will have no effect on biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☐	☐	☐	☒
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on storm drainage policies.

(2) The project will have no effect on surface runoff.

(3) The project will have no effect on Low Impact Development strategies to reduce runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-10 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☐	☐	☒
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project would place structures within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☐	☐	☐	☒
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	☐	☐	☒
6) The proposed project would violate water quality standards or waste discharge requirements.	☐	☐	☐	☒
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☐	☐	☐	☒
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on flooding and water quality policies.

(2) The project will have no effect on federal Clean Water Act or the State Porter-Cologne Act.

(3) The project will not result in more housing within a 100-year flood hazard zone.

(4) The project will have no effect on flooding.

(5) The project will have no effect on Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.

(6) The project will have no effect on water quality standards or waste discharge requirements.

(7) The project will have no effect on existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation.

(8) The project will have no effect on runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would eliminate parks or open space.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on parks and open space policies.

(2) The project will have no effect on parks and open space.

(3) The project will have no effect on parks and recreation facilities.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-3 through V-12-8 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on school policies.

(2) The project will have no effect on SB 50/Proposition 1A funding provisions.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on policies relating to police services.

(2) The project will not result in the need for more police facilities.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on fire service policies.

(2) The project will not result in the need for more fire service facilities.

(3) The project will have no effect on fire protection services in adjoining fire protection districts.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.
Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on solid waste policies.

(2) The project will have no effect on the County solid waste facility.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☐	☐	☒
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on hazardous materials policies.

(2) The project will not result in emitting hazardous emissions or handling hazardous materials.

(3) The project will not result in locating projects on hazardous materials sites.

(4) The project will not result in locating projects on contaminated sites.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on geology, soils, and mineral resources policies.

(2) The project will not result in exposing people or structure to seismic activities, location on expansive soils, or loss of mineral resources.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-7 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on energy policies.

(2) The project will not result in wasteful energy consumption during future construction activities.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-19.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on visual resources policies. The proposed code amendment will not affect scenic vistas, scenic resources, or light and glare.

(2) The project will have no effect on views from riverside areas and parks.

(3) The project will have no effect on views from public roadways.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-18 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☐	☒	☐
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☐	☐	☐	☒
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and is consistent land use and planning policies. General Plan Policy V-C.1.h. that states, "Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions". The proposed code amendment help implement this policy by addressing the compatibility of new homes and additions to homes with the surrounding homes in existing neighborhoods.

(2) The project will not result in the physical division of an established community.

(3) The project will have no effect on a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact.

(4) The project will have no effect on applicable habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-6 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-21.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☐	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code development regulations focused primarily on addressing compatibility of new second story dwellings or additions in existing neighborhoods and will have no effect on climate change policies.

(2) The project will have no effect on automobile trip lengths or CO2 emissions.

(3) The project will have no effect on the Sustainable Communities Strategy or Alternative Planning Strategy.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation: Not Applicable (N/A)

Degradation of Air Quality: N/A

Generation of Noise: N/A

Effects on Agricultural Lands: N/A

Increased Demand for Long-Term Water Supplies: N/A

Increased Demand for Sanitary Sewer Services: N/A

Loss of Sensitive Wildlife and Plant Habitat: N/A

Disturbance of Archaeological/Historic Sites: N/A

Increased Demand for Storm Drainage: N/A

Flooding and Water Quality: N/A

Increased Demand for Parks and Open Space: N/A

Increased Demand for Schools: N/A

Increased Demand for Police Services: N/A

Increased Demand for Fire Services: N/A

Generation of Solid Waste: N/A

Generation of Hazardous Materials: N/A

Geology, Soils, and Mineral Resources: N/A

Energy: N/A

Effects on Visual Resources: N/A

Land Use and Planning: N/A

Climate Change: N/A

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-191

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): OMNIBUS ZONING CODE TEXT AMENDMENT (INITIATED BY CITY OF MODESTO)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the City of Modesto has proposed Omnibus Zoning Code Text Amendments, 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 2010-05 ("Initial Study"), reviewed the proposed Omnibus Zoning Code Text Amendment to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or

alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on April 14, 2010, 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 May 11, 2010 at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Omnibus Zoning Code Text Amendment, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED 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 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-05

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2010-05

For the proposed:

CODE-10-001
Omnibus Zoning Code Text Amendment

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

2-24-10

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether CODE-09-002, Code Amendment to Implement the Neighborhood Compatibility Guidelines is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: CODE-10-001, Omnibus Zoning Code Text Amendment

B. Address or Location: City of Modesto, 1010 Tenth Street, Modesto, CA 95353

C. Applicant: City of Modesto

D. City Contact Person: David Wage, Associate Planner

Project Manager: David Wage
Department: Community and Economic Development Department
Phone Number: 209 577 5302
E-mail address: dwage@modestogov.com

E. Current General Plan Designation(s): Not Applicable

F. Current Zoning Classification(s): Not Applicable

G. Surrounding Land Uses:
North: Not Applicable
South: Not Applicable
East: Not Applicable
West: Not Applicable

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Significant amendments included in this update are as follows:

Non-Conforming Uses, Structures and Sites, and Lots: The Municipal Code currently includes limited language regarding non-conforming uses. Additional language was added to include criteria for the expansion of a non-conforming use and the replacement of one non-conforming use with another. The Municipal Code does not address non-conforming developments (e.g., buildings and sites that don't meet setback, parking and other development standards). The amendment includes language to address proposed expansions, as well as, the maintenance, and reconstruction of a non-conforming structure or site. Language was also added to expand on the provisions regarding non-conforming lots which do not meet code requirements for lot area and dimensions.

Manufactured Homes: There are currently no regulations in the Municipal Code regarding Manufactured Homes. The proposed code update is intended to ensure all new Manufactured Homes installed meet the minimum building safety requirements established in the National Manufactured Housing Construction and Safety Standards of June 15, 1976. In addition to building safety, the proposed code update is also intended to encourage Manufactured Homes to maintain residential compatibility with existing neighborhoods by requiring siding materials that are in keeping with the character of the neighborhood, a minimal roof pitch and overhang and the placement of units on a permanent foundation.

Wall Sign Height: The current code language requires walls signs to be located below the main ridgeline of a building. This requirement was written during a time when the majority of commercial buildings had flat rooflines. Buildings with parapet roofs and minor architectural projections that vary in height have become increasingly common. Many of the minor architectural projections were designed to accommodate wall signage but due to the ridgeline limitations of the current code, are not allowed to have signs mounted on them. The proposed code change would allow signs to be located below the top of the roof, parapet or wall, of which the sign is to be affixed.

Churches: Churches are currently a conditional use in the Professional Office (P-O) and Commercial (C-1, C-2, C-3, C-M) Zones. The proposed code change would allow churches as a permitted use in the Professional Office and Commercial Zones.

Commercial Condominiums: Commercial condominiums are currently required to be located in Planned Development Zones. The proposed code change would allow commercial condominiums in the Professional Office (P-O) and Commercial (C-1, C-2, C-3, C-M) and Industrial (M-1, M-2) Zones.

Planned Development Zone: Planned Development Zones are currently required to maintain a minimum area of one acre, except for developments in the Downtown Area. The proposed code change would eliminate the minimum area requirement.

The other proposed change to Planned Development Zone code section would remove theatre (indoor) as a permitted use in the P-D Zone and relocate it as a permitted use in the C-2 Zone.
Miscellaneous: In addition to the code changes described above, other miscellaneous changes include: Eliminating reference to "Downtown P-D Zone" for parking and adding a definition for "Downtown Area"; Removing the definition for "Kitchen" and adding a definition for "Dwelling Unit"; adding a definition for "Nonconforming Structure and Site"; Removing an antiquated section in the Off-Street Parking Requirements regarding Temporary Parking Lots Downtown.

I. Other Public Agencies Whose Approval is Required:
None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ____ **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Paul Wagner — Associate Planner — 3/23/10

Project Manager — Title — Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

Discussion:

(5) The proposed code amendment does not involve a development project. However, applicable future development projects subject to the code amendment will be within the planning area.

(6) Applicable future development projects will be subject to appropriate mitigation measures in the Master EIR.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-28 to V-1-31) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-28).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-24. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☐	☐	☐	☒
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☐	☐	☐	☒
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☐	☐	☐	☒
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☐	☐	☐	☒
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	☐	☐	☐	☒

Discussion:

(1) The project is an minor update to the Zoning Code regulations to reflect changes in state law, current practices, changes to policies, and to correct technical issues and will have no effect on traffic generation assumptions.

(2) The project will have no effect on the level of service standard established by the county congestion management.

(3) The project will have no effect on traffic and circulation issues.

(4) The project will have no effect on emergency response time.

(5) The project will have no effect on parking requirements.

(6) The project will have no effect on alternative transportation policies.

(7) The project will have no effect on automobile vehicle miles traveled.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-26).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-26).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-26).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-14 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☐	☐	☐	☒
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☐	☐	☐	☒
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☐	☐	☐	☒
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☐	☐	☐	☒
5) The proposed project would create objectionable odors affecting a substantial number of people.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on emissions thresholds.

(2) The project will have no effect on best management practices established by the SJVAPCD.

(3) The project will have no effect on air quality policies.

(4) The project will have no effect on sensitive receptors.

(5) The project will not result in the creation of objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-11, and Figure V-3-2 and Table 3-6, pages V-3-19 and V-3-20).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-12 through V-3-16 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☐	☐	☒
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on noise level standards.

(2) The project will have no effect on noise policies.

(3) The project will not result in an increase of ambient noise levels.

(4) The project will not result in a temporary or periodic increase of ambient noise levels.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☐	☐	☐	☒
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☐	☐	☐	☒
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☐	☐	☐	☒
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on agricultural land policies.

(2) The project will have no effect on development outside the Modesto planning area.

(3) The project will have no effect on land zoned for agricultural use or with Williamson Act contract.

(4) The project will have no effect on the conversion of farmland to non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	☒
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☐	☐	☐	☒
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on the water supply.

(2) The project will have no effect on water demand.

(3) The project will have no effect on groundwater supply.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-2 through V-6-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☐	☐	☐	☒
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on wastewater policies.

(2) The project will have no effect on sewage flows.

(3) The project will have no effect on wastewater capacity.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-18 through V-7-25 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☐	☐	☐	☒
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on wildlife and plant habitat policies.

(2) The project will not result in significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.

(3) The project will have no effect on federally protected wetlands.

(4) The project will have no effect on native resident or migratory fish or wildlife species.

(5) The project will have no effect on local policies or ordinances protecting biological resources.

(6) The project will have no effect on local, regional, or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-15 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	☐	☐	☐	☒
3) The proposed project would modify or demolish a structure more than 50 years in age.	☐	☐	☐	☒
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	☐	☐	☐	☒
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on archaeological/historical resource policies.

(2) The project will have no effect on historical buildings or landmarks.

(3) The project will have no effect on structures.

(4) The project will have no effect on cultural resources.

(5) The project will have no effect on biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☐	☐	☐	☒
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on storm drainage policies.

(2) The project will have no effect on surface runoff.

(3) The project will have no effect on Low Impact Development strategies to reduce runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-10 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☐	☐	☒
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project would place structures within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☐	☐	☐	☒
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	☐	☐	☒
6) The proposed project would violate water quality standards or waste discharge requirements.	☐	☐	☐	☒
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☐	☐	☐	☒
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on flooding and water quality policies.

(2) The project will have no effect on federal Clean Water Act or the State Porter-Cologne Act.

(3) The project will not result in more housing within a 100-year flood hazard zone.

(4) The project will have no effect on flooding.

(5) The project will have no effect on Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.

(6) The project will have no effect on water quality standards or waste discharge requirements.

(7) The project will have no effect on existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation.

(8) The project will have no effect on runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would eliminate parks or open space.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on parks and open space policies.

(2) The project will have no effect on parks and open space.

(3) The project will have no effect on parks and recreation facilities.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-3 through V-12-8 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on school policies.

(2) The project will have no effect on SB 50/Proposition 1A funding provisions.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on policies relating to police services.

(2) The project will not result in the need for more police facilities.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on fire service policies.

(2) The project will not result in the need for more fire service facilities.

(3) The project will have no effect on fire protection services in adjoining fire protection districts.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.
Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on solid waste policies.

(2) The project will have no effect on the County solid waste facility.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☐	☐	☒
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on hazardous materials policies.

(2) The project will not result in emitting hazardous emissions or handling hazardous materials.

(3) The project will not result in locating projects on hazardous materials sites.

(4) The project will not result in locating projects on contaminated sites.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on geology, soils, and mineral resources policies.

(2) The project will not result in exposing people or structure to seismic activities, location on expansive soils, or loss of mineral resources.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-7 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on energy policies.

(2) The project will not result in wasteful energy consumption during future construction activities.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-19.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on visual resources policies. The proposed code amendment will not affect scenic vistas, scenic resources, or light and glare.

(2) The project will have no effect on views from riverside areas and parks.

(3) The project will have no effect on views from public roadways.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-18 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☐	☒	☐
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☐	☐	☐	☒
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices and policies and is consistent land use and planning policies. General Plan Policy V-C.1.h. that states, "Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions". The proposed code amendment help implement this policy by addressing the compatibility non-conforming uses, structures and sites, lot and manufactured home homes with the surrounding homes in existing neighborhoods.

(2) The project will not result in the physical division of an established community.

(3) The project will have no effect on a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact.

(4) The project will have no effect on applicable habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-6 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation is applied to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-21.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☐	☐	☒

Discussion:

(1) The project is a minor update to the Zoning Code regulations to reflect changes in state law, current practices, and policies and will have no effect on climate change policies.

(2) The project will have no effect on automobile trip lengths or CO2 emissions.

(3) The project will have no effect on the Sustainable Communities Strategy or Alternative Planning Strategy.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation: Not Applicable (N/A)

Degradation of Air Quality: N/A

Generation of Noise: N/A

Effects on Agricultural Lands: N/A

Increased Demand for Long-Term Water Supplies: N/A

Increased Demand for Sanitary Sewer Services: N/A

Loss of Sensitive Wildlife and Plant Habitat: N/A

Disturbance of Archaeological/Historic Sites: N/A

Increased Demand for Storm Drainage: N/A

Flooding and Water Quality: N/A

Increased Demand for Parks and Open Space: N/A

Increased Demand for Schools: N/A

Increased Demand for Police Services: N/A

Increased Demand for Fire Services: N/A

Generation of Solid Waste: N/A

Generation of Hazardous Materials: N/A

Geology, Soils, and Mineral Resources: N/A

Energy: N/A

Effects on Visual Resources: N/A

Land Use and Planning: N/A

Climate Change: N/A

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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-192

RESOLUTION APPROVING THE CITY OF MODESTO FISCAL YEAR 2010-2011 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR THE USE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME), AND EMERGENCY SHELTER GRANT (ESG) FUNDS; AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PERTAINING TO THE FISCAL YEAR 2010-2011 ANNUAL ACTION PLAN; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty line, and the number of housing units that are considered substandard, and

WHEREAS, submittal of an AAP is required to receive the City's entitlement grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Citizens' Housing and Community Development Committee recommended support of this item at its April 21, 2010 meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 11, 2010, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider submission of an application to HUD pertaining to the Fiscal Year 2010-2011 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, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, the 30-day public comment period began on March 23, 2010, and concluded with a public hearing scheduled for the Council meeting of May 11, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Fiscal Year 2010-2011 U.S. Department of Housing and Urban Development Annual Action Plan for the use of $2,531,823 in Community Development Block Grant (CDBG) funds, $1,311,710 in HOME Investment Partnerships Program (HOME) funds, and $103,064 in Emergency Shelter Grant (ESG) funds, a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development pertaining to the Fiscal Year 2010-2011 Annual Action Plan which describes how the City intends to spend Federal assistance received from the U.S. Department of Housing and Urban Development.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____, Asst.
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-193

RESOLUTION APPROVING THE ALLOCATION OF FUNDING IN THE AMOUNTS OF $373,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICES, APPROXIMATELY $98,000 IN NEW ENTITLEMENT FUNDS AND $3,760 IN CARRYOVER FUNDS TOTALING $101,760 FOR EMERGENCY SHELTER GRANT, AND UP TO $40,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT ADMINISTRATION FUNDS FOR FAIR HOUSING SERVICES IN FISCAL YEAR 2010-11; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City is obligated to allocate up to fifteen percent (15%) of the CDBG entitlement funds (plus fifteen percent 15% of program income received during the prior year), to provide a wide range of public service activities to benefit low- and moderate-income residents, and

WHEREAS, the City allocates ninety-five percent (95%) of ESG funding to non-profit agencies for emergency shelter activities on a matching fund basis, and

WHEREAS, these allocations are detailed in the City's AAP, and

WHEREAS, the City released the Fiscal Year 2010-11 CDBG Public Services and ESG Requests for Proposals (RFPs) on January 11, 2010, and the proposals were due on February 19, 2010, and

WHEREAS, technical assistance workshops were held on January 22 and February 2, 2010, and

WHEREAS, twenty-two (22) public service grant proposals were recommended for either full or partial funding (see **Attachment** 1) totaling $293,000, and

WHEREAS, staff also recommends that $80,000 in CDBG public service funding be utilized to support eligible City recreational services, and

WHEREAS, all seven (7) proposals received for ESG funding for emergency shelter grants were recommended for either full or partial funding (see **Attachment** 2), and

WHEREAS, in accordance with the Fair Housing Act, HUD requires that the City, as a CDBG grantee, administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act, and

WHEREAS, staff further recommends up to $40,000 in funding for fair housing services through Project Sentinel for Fiscal Year 2010-11 under the CDBG Administration program area, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, the 30-day public comment period began on March 23, 2010, and concluded with a public hearing scheduled for the Council meeting of May 11, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of funding in the amounts of $373,000 in Community Development Block Grant (CDBG) Public Services, $101,760 in Emergency Shelter Grant (ESG), and up to $40,000 in CDBG Administration funds for fair housing services in Fiscal Year 2010-11.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to sign the required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT 1

Fiscal Year 2010-2011 Award Recommendations for Public Services ($373,000)

AGENCY	REQUEST	AWARD
Category: Persons Experiencing Homelessness	$164,103	$126,000
Second Harvest Food Bank – Food Assistance	$20,000	$20,000
The Salvation Army, Modesto Citadel – Berberian Emergency Shelter	$19,992	$20,000
United Samaritans Foundation – Daily Bread Mobile Lunch Program, Modesto Truck	$16,000	$16,000
American Red Cross, Stanislaus County Chapter – Emergency Response Shelter Services	$19,415	$15,000
Center for Human Services – Pathways	$20,000	$20,000
Family Promise of Greater Modesto – Case Management	$11,196	$11,000
Stanislaus Multi-Cultural Health Collaborative/West Modesto King-Kennedy Neighborhood Collaborative – Refresh Program	$20,000	$10,000
Habitat for Humanity, Stanislaus – Windows of Hope*	$17,500	$0
Project Sentinel – Tenant-Landlord Services*	$20,000	$14,000
Category: Children	$100,000	$53,000
Second Harvest Food Bank – Food 4 Thought	$20,000	$20,000
Children's Crisis Center of Stanislaus County – Homeless At Risk Children of Marsha's House	$20,000	$11,000
Children's Crisis Center of Stanislaus County – Homeless At Risk Children of Sawyer House	$20,000	$11,000
Children's Crisis Center of Stanislaus County – Homeless At Risk Children of Cricket's House	$20,000	$11,000
Parent Resource Center – ABCs of Childcare*	$20,000	$0
Category: Youth	$19,998	$15,000
Center for Human Services – Hutton House	$19,998	$15,000
Category: Adults	$60,000	$45,000
Healthy Start Family Resource Center at Orville Wright Elementary – Community Liaison	$20,000	$20,000
Community Housing and Shelter Services – Laura's House	$20,000	$15,000
Stanislaus Literacy Center – ReadingWorks Adult Literacy	$20,000	$10,000
Category: Older Adults	$40,000	$21,000
Howard Training Center – Senior Meals Program	$20,000	$15,000
Healthy Aging Association – Young at Heart Strength Training, Exercise, Fall Prevention, and Health Education Outreach*	$20,000	$6,000
Category: Persons with Special Needs	$48,160	$33,000
Stanislaus Community Assistance Project – Nutritional Supplement and Education Program	$20,000	$15,000
Disability Resource Agency for Independent Living – Assistive Technology Program	$20,000	$10,000
National Alliance for the Mentally Ill, Stanislaus – Beth and Joanna Friends in Recovery	$8,160	$8,000
Category: Community-wide		$80,000
Recreation Division		$80,000

***Not recommended for funding**

ATTACHMENT 2

Fiscal Year 2010-2011 Award Recommendations for Emergency Shelter Grants ($101,760)

AGENCY	REQUEST	AWARD
The Salvation Army, Modesto Citadel – Berberian Emergency Shelter	$20,000	$20,000
Children's Crisis Center of Stanislaus County – Infant Shelter at Marsha's House	$24,480	$18,886
Center for Human Services – Pathways	$15,790	$15,886
Center for Human Services – Hutton House	$22,500	$15,886
Community Housing and Shelter Services – Homeless Prevention	$20,000	$13,887
Children's Crisis Center of Stanislaus County – Second Floor Emergency Exit at Cricket's House	$14,200	$14,200
Family Promise of Greater Modesto – Shelter Services for Homeless Families	$3,015	$3,015

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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-194

RESOLUTION APPROVING THE ALLOCATION OF $10,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICES FUNDING IN FISCAL YEAR 2010-11 TO COURT-APPOINTED SPECIAL ADVOCATES OF STANISLAUS COUNTY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City is obligated to allocate up to fifteen percent (15%) of the CDBG entitlement funds (plus fifteen percent 15% of program income received during the prior year), to provide a wide range of public service activities to benefit low- and moderate-income residents, and

WHEREAS, the City allocates ninety-five percent (95%) of ESG funding to non-profit agencies for emergency shelter activities on a matching fund basis, and

WHEREAS, these allocations are detailed in the City's AAP, and

WHEREAS, the City released the Fiscal Year 2010-11 CDBG Public Services and ESG Requests for Proposals (RFPs) on January 11, 2010, and the proposals were due on February 19, 2010, and

WHEREAS, technical assistance workshops were held on January 22 and February 2, 2010, and

WHEREAS, Court-Appointed Special Advocates of Stanislaus County submitted a public service grant proposal and was recommended for $10,000 in funding, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, the 30-day public comment period began on March 23, 2010, and concluded with a public hearing scheduled for the Council meeting of May 11, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of funding in the amounts of $10,000 in Community Development Block Grant (CDBG) Public Services funding to Court-Appointed Special Advocates of Stanislaus County in Fiscal Year 2010-11.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to sign the required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-195

RESOLUTION APPROVING MODIFICATIONS TO MODESTO AREA EXPRESS (MAX) ROUTE 28 TO PROVIDE NEW BUS SERVICE TO GREGORI HIGH SCHOOL AND THE MODESTO INSTITUTE OF TECHNOLOGY, AND INCREAE SERVICE TO SALIDA AND KAISER PERMANENTE'S MODESTO MEDICAL CENTER AT A COST OF APPROXIMATELY $156,000 ANNUALLY, EFFECTIVE AUGUST 2010

WHEREAS, the City of Modesto's Strategic Plan includes Strategy III.B.1: "Develop an efficient, well coordinated, county-wide, multi-modal transportation system", and

WHEREAS, Modesto Area Express (MAX) is a critical component of the transportation system for the City of Modesto, and

WHEREAS, to make the MAX system more efficient and productive, staff recommends modifications to Route 28 to provide new bus service to Gregori High School and the Modesto Institute of Technology and increase service to Salida and Kaiser Permanente's Modesto Medical Center at a cost of approximately $156,000 annually, effective August 2010, and

WHEREAS, the Economic Development Committee approved this item at its April 12, 2010 meeting, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council of the City of Modesto to be held on May 11, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves modifications to Modesto Area Express (MAX) Route 28 to provide new bus service to Gregori High School and the Modesto Institute of

Technology, and increase service to Salida and Kaiser Permanente's Modesto Medical Center, effective August 2010,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-196

RESOLUTION ADOPTING RULES AND PROCEDURES FOR ADMINISTERING LAND SUBJECT TO A WILLIAMSON ACT CONTRACT

WHEREAS, the State of California has established administrative procedures for property under Williamson Act contracts (Government Code §51200, et seq) and requires that all municipalities that include Williamson Act-contracted properties adopt procedures for administering those contracts consistent with State law, and

WHEREAS, the Stanislaus County Local Agency Formation Commission at its meeting of June 25, 2008, imposed on the annexation of the Tivoli Specific Plan pursuant to its Resolution No. 2008-19, condition of approval 6g, requiring the City of Modesto to adopt rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Government Code Sections 51231, 51237, and 51237.5, and

WHEREAS, on November 16, 2009, the Planning Commission, by Resolution No. 2009-28, recommended the City Council adopt rules and procedures for administering land subject to a Williamson Act Contract, and

WHEREAS, on April 12, 2010, the Economic Development Committee recommended forwarding the Williamson Act Contract Rules and Procedures to the full City Council, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 11, 2010, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Rules and Procedures for Administering Land Subject to a Williamson Act Contract as shown in **Exhibit "A" attached** hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Rules and Procedures for Administering Land Subject to a Williamson Act Contract

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

City of Modesto Williamson Act Rules and Procedures

Introduction

Statewide concern over the rapid conversion of agricultural land to urban uses led to enactment of the Land Conservation Act of 1965, commonly referred to as the Williamson Act. This Act enabled the County of Stanislaus to establish an Agricultural Preserve. Once the preserve was established, property owners could contract with the County to preserve the property and qualify for a property tax assessment based upon use and economic yield rather than the full market value of the property.

These Rules and Procedures for the administration of agricultural preserves and land conservation contracts are adopted pursuant to Government Code Section 51231, in order to implement the Williamson Act (Government Code Section 51200 and following). These Rules and Procedures shall be interpreted and applied in conformance with state law. All statutory references are to the Government Code unless otherwise indicated. The purposes of the Agricultural and Open Space Preserve Program are to protect agricultural lands for the continued production of agricultural commodities and to protect certain other lands devoted to certain open space uses.

The City of Modesto hereinafter referred to as the "City", has within its existing boundaries several properties under active Williamson Act contracts on which agricultural operations continue. Because the City boundaries continue to expand outward, the City is constantly at risk of planning development on or adjacent to Williamson Act-contracted properties.

Applicability

These rules provide standards and procedures for:

1. Application by landowners for the inclusion of land within agricultural or open space preserves;

2. The review of preserve applications by the City, including determination of the eligibility of property for preserve status, and preserve contract preparation and content;

3. Limitations on the land uses allowed on properties subject to preserve contracts, and requirements for landowners to maintain preserve status;

4. The termination of preserve contracts by either the landowner or the City; and

5. The monitoring of the Agricultural and Open Space Preserve program and enforcement of these Rules.

I. AGRICULTURAL PRESERVES

A. General

Agricultural preserves are established for the purpose of defining the boundaries within which the City is willing to enter into Williamson Act contracts. All land zoned A-2 within the boundaries of Stanislaus County is part of Stanislaus County's agricultural preserve, in accordance with Government Code Section 51230. Only land within an agricultural preserve is eligible for a Williamson Act contract.

However, the City Council may, by resolution, establish agricultural preserves for the purpose of defining the boundaries of those areas within which the City will be willing to enter into contracts pursuant to the Williamson Act and these Rules and Procedures. An agricultural preserve shall consist of no less than 100 acres, provided that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; unless the City Council finds as follows:

1. That a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area; and

2. That the establishment of the preserve is consistent with the City's General Plan. (§51230)

B. Annexed Land

An agricultural preserve shall continue in full effect following annexation of the land within the preserve. Once the City acquires jurisdiction over land in a preserve by annexation, it has all the rights and responsibilities specified in the Act for cities and these Rules and Procedures, including the right to enlarge, diminish, or disestablish the preserve, and the responsibilities to administer and enforce Williamson Act contracts. (§51235)

II. CONTRACTS

A. General

1. Williamson Act contracts constitute enforceable restrictions as required by Revenue and Taxation Code Section 422.

2. The City shall not enter into a Williamson Act contract with respect to any land which is not devoted to agricultural use and located within a designated agricultural preserve. (§51243)

3. If a contract is made with any landowner, the City shall offer such a contract under similar terms to every other owner of agricultural land within the same agricultural preserve within the City's jurisdiction. (§51241)

4. Contracts shall be approved by resolution of the City Council and signed by the Mayor.

B. Annexed Land

Upon the annexation by the City of any land under contract with the County of Stanislaus not protested by the City in accordance with the provisions of Government Code Section 51243.5, the City shall succeed to all rights, responsibilities, and powers of the County under such contract. (§51243)

C. Division of Land Under Contract

Any division of land under contract must conform with the provisions of the state Subdivision Map Act (§66410 et seq.), including but not limited to section 66474.4, relating to properties subject to the Williamson Act, which states that the Planning Commission or City Council shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land.

Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, the rights of the owner in the original contract, including the right to give notice of non-renewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land. (§51243)

D. Application and Fee

An application to process a Williamson Act contract shall be on a form prescribed by the Community and Economic Development Department. The application fee shall be established by resolution. (§51247)

E. Form of Contract

All contracts shall be substantially similar to the form contained in Appendix A.

F. Recordation

All Williamson Act contracts shall be recorded on the property at the Stanislaus County Clerk/Recorder's Office and shall be binding upon the parties to the contract and upon their successor-in-interest.

G. Term

Each contract shall be for an initial term of 10 years and shall provide that on the anniversary date of the contract, or such other annual date as specified by the contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given. (§51244)

H. Nonrenewal

If either the landowner or the City desires in any year not to renew a contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date or by the City at least 60 days prior to the renewal date the contract shall be considered renewed. Upon receipt by the owner of a notice from the City of nonrenewal, the owner may file a written protest of the notice of nonrenewal with the City Clerk. The City may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the City Council may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract (§51245). If the City or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be. (§51246)

I. Rescission for Lot Line Adjustments

1. Application and Fee

A landowner may petition the City Council to rescind a contract and simultaneously enter into a new contract to facilitate a lot line adjustment. An application to rescind a contract shall be on a form prescribed by the Community Development Department and may be granted subject to certain specific findings. The application fee shall be established by resolution. (§51257)

2. Notice and Public Hearing

Rescission agreements pursuant to this section may only be entered into after a public hearing (§51284). The City Clerk shall publish notice of the hearing once pursuant to Government Code Section 6061.

3. Findings

The City Council may by resolution, enter into a rescission agreement pursuant to this section only if it makes all of the findings in Government Code Section 51257.

J. Cancellation

1. Application and Fee

A landowner may petition the City Council for cancellation of any contract as to all or any part of the land subject to the contract. An application to cancel a contract shall be on a form prescribed by the Community Development Department. The application shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall also list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use. The application fee shall be established by resolution. (§§51281.1, 51287, 51282.)

2. Notice and Public Hearing

No contract may be canceled until after the City has given notice of, and has held, a public hearing on the matter (§51284). The City Clerk shall publish notice of the hearing pursuant to Government Code section 6061 and shall mail such notice to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, the City Clerk shall mail a notice of the hearing and a copy of the landowner's petition to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the City Clerk shall publish a notice of the City Council's decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City. In addition, within 30 days of the tentative cancellation of the contract, the City Clerk shall deliver a copy of the published notice of the decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings. (§51248)

3. Determination of Cancellation Fee

Prior to any action by the City Council giving tentative approval to the cancellation of any contract, pursuant to Government Code Section 51283, the Director of Community and Economic Development hereinafter referred to as the "Director", shall request that the Stanislaus County Assessor's Office determine the full cash value of the land as though it were free of the contractual restriction and certify to the City Council the cancellation valuation of the land for the purposes of determining the cancellation fee. The City Council shall then determine and certify to the Stanislaus County Auditor's Office the amount of the cancellation fee which the landowner shall pay the County Treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12 ½ percent of the cancellation value of the property unless otherwise established by state law.

4. Protests

The owner of any property located in the City may protest a contract cancellation by filing a written protest with the City Clerk prior to the public hearing. (§51285)

5. Findings

The City Council may, by resolution, grant tentative approval for cancellation of a contract only if it makes one of the following findings, pursuant to Government Code Section 51282:

(a) That the cancellation is consistent with the purposes of the Williamson Act, meaning that the Council makes all of the following findings:

- That the cancellation is for land on which a notice of nonrenewal has been served;

- That the cancellation is not likely to result in the removal of adjacent lands from agricultural use;

- That the cancellation is for an alternative use which is consistent with the applicable provisions of the City's General Plan;

- That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

(b) The cancellation is in the public interest, meaning that the City Council makes all of the following findings:

- That other public concerns substantially outweigh the objectives of the Williamson Act; and

- That there is no proximate non-contracted land which is both available and suitable for the use of which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

6. Certificate of Tentative Cancellation

Upon tentative approval of a cancellation application, the City Clerk shall record a certificate of tentative cancellation with the County Recorder. The certificate of tentative cancellation shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at such time as specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions set forth above, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be recomputed as of the date of notice from the landowner that he or she has satisfied the conditions and contingencies, described below. Any provisions related to the waiver of such fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation: Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The City Council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that such amendment is consistent with the required findings for cancellation described above. (§51283.4)

7. Certificate of Cancellation

The landowner shall notify the Director in writing when he or she has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of such notice, and upon a determination that the conditions and contingencies have been satisfied, the City Council shall by resolution adopt a certificate of cancellation of contract. The City Clerk shall record the certificate of cancellation of contract with the County Recorder and send a copy to the Director of Conservation. (§51283.4)

8. Certificate of Withdrawal

If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the Director in writing of the particular condition or contingencies he or she is unable to satisfy. Within 30 days of receipt of such notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the City Council shall by resolution adopt a certificate of withdrawal of tentative approval of a cancellation of contract. The City Clerk shall record the certificate of withdrawal with the County Recorder. If a notice of withdrawal is approved, the landowner shall not be entitled to the refund of any cancellation fee. (§51283.4)

K. Environmental Review

The making or renewing of a contract under the Williamson Act is categorically exempt from review under CEQA. (14 Cal. Code Regs. §15317) Additionally, nonrenewals initiated by the property owner are unilateral private actions that are not subject to CEQA review.

However, any action taken by the City to file a notice of nonrenewal or cancel a contract is a potential discretionary action subject to CEQA review. Therefore, prior to taking any such action, the City shall perform a review under CEQA.

Cancellation of a contract for any parcel of 100 or more acres is deemed to be of statewide, regional or areawide significance for the purposes of CEQA. Therefore, any draft EIR or Negative Declaration prepared for such an action must be submitted to the State Clearinghouse and the appropriate metropolitan area council of governments. (14 Cal. Code Regs. §15206)

APPENDIX A

SAMPLE WILLIAMSON ACT CONTRACT

Recording requested by:
City of Modesto

When recorded return to:
City of Modesto
Attn.: Stephanie Lopez, City Clerk
1010 10th Street
Modesto, CA 95354

SPACE ABOVE FOR RECORDER'S USE ONLY

LAND CONSERVATION CONTRACT

CONTRACT NO. _____

THIS LAND CONSERVATION CONTRACT made and entered into this day of _____, 200__, by and between _____

_____ hereinafter referred to as the "Owner" and the City of Modesto hereinafter referred to as the "City";

WITNESSETH:

WHEREAS, the Owner possesses real property in the City hereinafter referred to as the "Subject Property" which is described in EXHIBIT "A" attached hereto; and

WHEREAS, the Subject Property is located within Agricultural Preserve No. 1 which was established by the Board of Supervisors of the County of Stanislaus by Resolution No. _____ and/or within Agricultural Preserve No. _____ which was established by the City Council of the City of Modesto by Resolution No. _____, authorized by the California Land Conservation Act of 1965, hereinafter referred to as the "Act"; and

WHEREAS, the City has determined that the Subject Property is Agricultural Land, as defined by the Act, and eligible to be placed under contract; and

WHEREAS, the Owner and the City desire to limit the use of the Subject Property to agricultural uses and uses compatible thereto in order to preserve a maximum amount of agricultural land, to conserve California's resources, to maintain the agricultural economy of the City, to assure a supply of food and fiber for future residents of the State, to discourage the premature and unnecessary conversion of agricultural land to incompatible uses, recognizing that such land has public value as open space and constitutes an important physical, social, aesthetic, and economic asset to the Owner and the City; and

WHEREAS, the Owner and the City recognize that the highest and best use of the Subject Property, during the term of this contract or any renewal thereof, is agriculture or agriculture compatible uses; and

WHEREAS, the Owner and the City desire to enter into this contract that enforceably restricts the Subject Property to open space land as defined in the California Revenue and Taxation Code.

NOW, THEREFORE, IT IS AGREED as follows:

1. CONTRACT SUBJECT TO THE CALIFORNIA LAND CONSERVATION ACT OF 1965. This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Title 5, Part 1, Division 1, Chapter 7, of the California Government Code commencing with Section 51200) and all of the provisions of said Act including all amendments thereto hereafter are incorporated by reference.

2. CONTRACT SUBJECT TO THE CITY OF MODESTO LAND CONSERVATION (WILLIAMSON) ACT RULES AND REGULATIONS. This Contract is made and entered into pursuant to the City of Modesto Williamson Act Rules and Regulations adopted by the City Council of the City of Modesto by Resolution No. _____ and all of the provisions of said Rules and Regulations including all amendments thereto hereafter are incorporated by reference.

3. ENFORCEABLE RESTRICTION ON THE USE OF SUBJECT PROPERTY. During the term of this Contract the Subject Property shall not be used by the Owner or any successor in interest for any use other than commercial agriculture uses and agriculture compatible uses as specified for Contract Land in EXHIBIT ___, Uniform Compatible Use Rules for Agricultural Preserves, made part hereof and by this reference included herein, which was adopted by the City Council of the City of Modesto by Resolution No. _____. From time to time the City Council may modify, by Resolution, the compatible uses set forth in EXHIBIT ___. During the term of this Contract the City shall not eliminate a use, as specified in EXHIBIT ___, allowed on the Subject Property without the written consent of the Owner.

4. INITIAL TERM OF CONTRACT The initial term of this Contract is ten (10) years, commencing on the 1st day of January, 2____. The anniversary date of the contract is the 1st of January of any subsequent year.

5. CONTRACT TERM - AUTOMATIC ANNUAL RENEWAL On the anniversary date of this Contract beginning in the year when this Contract will have an unexpired term of nine (9) years, one (1) year shall be automatically added to the initial term of this Contract unless a notice of nonrenewal is given in the manner prescribed by the City of Modesto Williamson Act Rules and Regulations and the California Land Conservation Act of 1965. In the event a notice of nonrenewal is filed, the remaining term of this Contract shall be no less than 9 years or the number of years remaining on the initial contract term, whichever is greater.

6. CONTRACT BINDING This Contract runs with the Subject Property, and any portion thereof, and is binding on, and inures to the benefit of, all successors in interest, heirs, executors, trustees, and assigns of the parties.

7. CONTRACT CANCELLATION This Contract may not be cancelled except pursuant to a petition filed by the Owner in the manner prescribed by the City of Modesto Williamson Act Rules and Regulations and the California Land Conservation Act of 1965. The City may not approve cancellation of this Contract unless the City Council can make specific findings required by the California Land Conservation Act of 1965.

8. CONTRACT CANCELLATION FEE Prior to any action by the City Council giving tentative approval to the cancellation of this Contract, the County Assessor shall determine the current fair market value of the Subject Property as though it were free of the contractual restriction. The Assessor shall certify to the City Council the cancellation valuation of the Subject Property for the purpose of determining the cancellation fee. The City Council shall determine and certify to the County Auditor the amount of the cancellation fee which the landowner shall pay the County Treasurer upon cancellation. That fee shall be an amount equal to twelve and one-half percent (12½ %) of the cancellation valuation of the property as prescribed by the California Land Conservation Act.

9. CONDEMNATION In the event the Subject Property, or any portion thereof, is subject to any condemnation or eminent domain action where a public entity acquires a fee title or a less than fee interest in the Subject Property, or any portion thereof, or upon acquisition of such title by a public entity in lieu of condemnation, this Contract shall become null and void as it applies to that portion of the Subject Property acquired by a public entity.

10. COMPENSATION The Owner shall receive no payment or remuneration from the City in consideration for the obligations imposed by this contract. The Owner and the City agree that this Contract provides a mutual benefit; the Owner recognizes a substantial benefit in that the Subject Property is eligible for special assessment as open space land under the California Revenue and Taxation Code, and the City recognizes that restricting the Subject Property to agriculture and agricultural compatible uses provides a substantial public benefit.

11. CITY AUTHORITY Nothing in this Contract shall supercede or limit the planning authority, zoning powers, or other police powers of the City and the right of the City to exercise such powers with regard to the Subject Property.

12. NOTICES Any notice required by this Contract or the Land Conservation Act of 1965 shall be in a written form in accordance with the provisions of the City of Modesto Williamson Act Rules and Regulations. Any required notice to the City shall be delivered to the City Clerk of the City of Modesto. Any required notice to the Owner shall be mailed first class to the address of the Owner as it is shown on latest equalized assessment roll for the County of Stanislaus.

13. SPECIAL RESTRICTIONS Land under contract is subject to special provisions found in the California Subdivision Map Act (Government Code 66474.4) for subdividing and creating homesite parcels which are smaller than minimum parcel size required to be eligible for a contract. A homesite parcel may only be created where a residence has existed on the property for at least five years and the property has been under same ownership for ten years. One single-family dwelling is allowed per executed Land Conservation Contract regardless of the number of parcels covered by the contract or the residential density allowed by the General Plan designation or zoning district.

Where a single family dwelling currently exists on contracted land, a secondary mobile home for a caretaker or on-site living assistance may be allowed subject to the provisions of Title X of the City of Modesto Municipal Code. Where more than one dwelling unit currently exists on land under a contract, including secondary mobile homes for caretakers, assisted living, and agricultural employees, such dwellings shall be allowed to continue as compatible uses; however, no additional dwelling units shall be developed. When a portion of land under contract is transferred to a new owner, and a single family dwelling already exists on the land covered by the original contract, no new dwellings shall be developed on the transferred land. Where a portion of land under contract is transferred to a new owner, and a single family dwelling does not currently exists on any of the land covered by the original contract, the landowner named in the original contract may transfer the right to develop a single family dwelling to the new owner or reserve the right to develop a residence on the land remaining.

14. ASSESSMENTS Land covered by this Contract is subject to special assessment procedures described in the California Revenue and Taxation Code Section 421 et seq. The Owner shall provide the Stanislaus County Assessor with any financial records and data directly related to income generated from agricultural production or allowed compatible uses on the Subject Property. The City agrees that any financial information gathered for assessment purposes shall remain confidential and is not open for public inspection.

IN WITNESS WHEREOF, the undersigned parties have executed this Contract as of the date written above.

CITY OF MODESTO

By: _____
Mayor of the City of Modesto

ATTEST

By: _____
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney
[Attach Notary Certificate(s)]

OWNER(S) Notarized Signatures

_____

_____

_____

_____

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix B
Complete Nonrenewal Submittal Checklist

(All items must be included at the time of filing)

The following items will facilitate expeditious processing of an action for Non-renewal of Williamson Act Contracts in the City of Modesto. The following items must be filed with the Community and Economic Development Department for the application to be deemed complete. If the following items are not submitted at the time of filing, the City of Modesto will not verify the accuracy of the Notice of Nonrenewal.

- ❑ Nonrenewal Submittal Form to include:
    - ❑ Property owner and applicant information (name, address, etc.).
    - ❑ Description of the property location (indicate property address, if any).
    - ❑ Existing zoning designation and land use for the property.
    - ❑ A precise legal description of the property to be prepared by an engineer or surveyor, or provided by a title company.
    - ❑ A complete legal description of the area to be non-renewed prepared by a civil engineer or surveyor.
    - ❑ Assessor's parcel numbers for each parcel affected.
- ❑ 8 ½" x 11" map showing subject properties and reflecting portion of property subject to the Notice of Nonrenewal
- ❑ Williamson Act Contract that pertains to the subject property
- ❑ Filing Fee
- ❑ Photos of the site

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix C
Williamson Act Contract
Nonrenewal Submittal Form

GENERAL INFORMATION

Property Owner: _____

Address: _____

Telephone No.:_____ Fax No.: _____

Applicant: _____

Address: _____

Telephone No.: _____ Fax No.: _____

Applicant's Representative: _____

Address: _____

Telephone No.: _____ Fax No.: _____

LOCATION

Subject property is generally located (indicate address if any): _____

_____

_____

ZONING

Existing Zoning: _____

Existing Land Use: _____

LAND CONSERVATION CONTRACT NO.: _____

Williamson Act Contract
Nonrenewal Submittal Form (Con't)

PRECISE LEGAL DESCRIPTION (attach separate sheet if necessary)

DOES THIS NOTICE COVER THE ENTIRE CONTRACT AREA OR A PORTION THEREOF?:

PARCEL NUMBER(S)

County Assessor's Book, Block and Lot Number(s): _____

Appendix D
Notice of Nonrenewal of
A Land Conservation Contract

This Notice of Nonrenewal of a Land Conservation contract is executed on _____, 20___ regarding the Land Conservation Contract Number(s) _____. This contract was recorded with the Stanislaus County Recorder on _____, 20___ in Book _____, Page _____ _____ of the public records (or as Instrument No.).

WHEREAS, _____
_____
Hereinafter referred to as "OWNER" are all the known current owners of the _____ acres of real property described in Exhibit "A", (see attached map and legal description), attached hereto and made a part thereof, which is in the City of Modesto and which is all of the property subject to the provisions of the above referenced contract; and

WHEREAS, the OWNER either made and entered into this contract on the _____ day of _____, 20___, or accepted same as an heir, successor or assign of the previous OWNER; and

WHEREAS, the subject property was annexed to the City of Modesto on _____; and

WHEREAS, the OWNER has filed this notice with the City of Modesto for Nonrenewal of a Land Conservation Contract on _____, 20___, and by so doing the OWNER understands and accepts the resulting change in property tax assessments under the provisions of the California Revenue and Taxation Code Section 426 and such other sections as are applicable; and

NOW, THEREFORE, the Nonrenewal of Land Conservation Contract Number(s) _____ is deemed effective as of the 1st day of January, 20_____ and the termination date will be the 31st day of December, 20____ as to that property described in Exhibit "A".

_____
Owner (signature)

_____
State of California
County of Stanislaus

On _____ before me, _____
personally appeared _____

❑ personally known to me -or- ❑ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

STATE OF CALIFORNIA)
COUNTY OF STANISLAUS) ss
CITY OF MODESTO)

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that this Notice of Nonrenewal of Land Conservation Contract _____ was received by the City on the ___ day of _____.

IN WITNESS HEREOF, I have hereunto set my hand and affixed the official seal of the City of Modesto this _____ day of _____.

By:_____ Date: _____
STEPHANIE LOPEZ, CITY CLERK

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix E
Partial Nonrenewal Submittal Checklist

(All items must be included at the time of filing)

The following items will facilitate expedient processing of an action for partial Nonrenewal of Williamson Act Contracts in the City of Modesto. The following items must be filed with the Community and Economic Development Department to determine the application complete. If the following items are not submitted at the time of filing, the City of Modesto will not verify the accuracy of the Partial Notice of Nonrenewal.

- ❑ Partial Non-renewal Submittal Form to include:
    - ❑ Property owner and applicant information (name, address, etc.).
    - ❑ Description of the property location (indicate property address, if any).
    - ❑ Existing zoning designation and land use for the property.
    - ❑ A precise legal description of the property to be prepared by an engineer or surveyor, or provided by a title company.
    - ❑ A complete legal description of the area to be non-renewed prepared by a civil engineer or surveyor.
    - ❑ Assessor's parcel numbers for each parcel affected.
    - ❑ Landowner's statement of facts, including the reason for partial Nonrenewal, and the agricultural viability of the portion remaining under contract.
- ❑ 8 ½" x 11" map showing subject properties and reflecting portion of property subject to the Notice of Non-renewal
- ❑ Williamson Act Contract that pertains to the subject property
- ❑ Filing Fee
- ❑ Photos of the site

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix F
Williamson Act Contract
Partial Nonrenewal Submittal Form

GENERAL INFORMATION

Property Owner: _____

Address: _____

Telephone No.:_____ Fax No.: _____

Applicant: _____

Address: _____

Telephone No.: _____ Fax No.: _____

Applicant's Representative: _____

Address: _____

Telephone No.: _____ Fax No.: _____

LOCATION

Subject property is generally located (indicate address if any): _____

_____

_____

ZONING

Existing Zoning: _____

Existing Land Use: _____

LAND CONSERVATION CONTRACT NO.: _____

Williamson Act Contract
Partial Nonrenewal Submittal Form (cont.)

PRECISE LEGAL DESCRIPTION (attach separate sheet if necessary)

DOES THIS NOTICE COVER THE ENTIRE CONTRACT AREA OR A PORTION THEREOF?:

PARCEL NUMBER(S)

County Assessor's Book, Block and Lot Number(s):

LANDOWNER'S STATEMENT OF FACTS:

Appendix G
Notice of Partial Nonrenewal of A Land Conservation Contract

This Notice of Partial Nonrenewal of a Land Conservation contract is executed on _____ _____, 20___ regarding the Land Conservation Contract Number(s) _____. This contract was recorded with the Stanislaus County Recorder on _____, 20___ in Book _____, Page _____ of the public records (or as Instrument No.).

WHEREAS, _____
_____
Hereinafter referred to as "OWNER" are all the known current owners of the _____ acres of that portion of real property described in Exhibit "A", (see attached map and legal description), attached hereto and made a part thereof, which is in the City of Modesto and which is all of the property subject to the provisions of the above referenced contract; and

WHEREAS, the OWNER either made and entered into this contract on the _____ day of _____, 20___, or accepted same as an heir, successor or assign of the previous OWNER; and

WHEREAS, the subject property was annexed to the City of Modesto on _____; and

WHEREAS, the OWNER has filed this notice with the City of Modesto for Nonrenewal of a Land Conservation Contract on _____, 20___, and by so doing the OWNER understands and accepts the resulting change in property tax assessments under the provisions of the California Revenue and Taxation Code Section 426 and such other sections as are applicable; and

NOW, THEREFORE, the Nonrenewal of Land Conservation Contract Number(s) _____ is deemed effective as of the 1st day of January, 20_____ and the termination date will be the 31st day of December, 20____ as to that portion of property described in Exhibit "A".

_____
Owner (signature)

_____
State of California
County of Stanislaus

On _____ before me, _____
personally appeared _____

❑ personally known to me -or- ❑ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

STATE OF CALIFORNIA)
COUNTY OF STANISLAUS) ss
CITY OF MODESTO)

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that this Notice of Nonrenewal of Land Conservation Contract _____ was received by the City on the ___ day of _____.

IN WITNESS HEREOF, I have hereunto set my hand and affixed the official seal of the City of Modesto this _____ day of _____.

By:_____ Date: _____
STEPHANIE LOPEZ, CITY CLERK

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix H
Cancellation Submittal Checklist

(All items must be included at the time of filing.)

The following items are necessary for Modesto's processing of a Petition for Cancellation of Williamson Act Contracts restricting property in the City of Modesto. The following items must be filed with the Community and Economic Development Department for the application to be deemed complete.

- ❑ Completed City of Modesto Application
- ❑ Completed Environmental Assessment
- ❑ Completed Petition for Cancellation
- ❑ Completed Proposal of Specified Alternative Use
- ❑ Vesting Deed (legible copy)
- ❑ 8 ½" x 11" map showing subject properties
- ❑ Legal Description of property (must be consistent with area covered under Non-renewal)
- ❑ Williamson Act Contract that pertains to the subject property
- ❑ Property Owner's list for contracted properties within one (1) mile, envelopes, radius map (include envelopes for the property owner, applicant and representative)
- ❑ Concurrent filing of Notice of Nonrenewal of the Williamson Act Contract or verification that a Notice of Nonrenewal of the Williamson Act Contract has been filed
- ❑ Filing Fee
- ❑ Photos of site

CITY OF MODESTO
Community and Economic Development Department/Planning Division
1010 Tenth Street, Suite 3300, P.O. Box 642
Modesto, CA 95353
(209) 577-5267 (209) 491-5798 FAX

Appendix – I
Williamson Act Contract
Petition for Cancellation

GENERAL INFORMATION

Property Owner: _____

Address: _____

Telephone No.:_____ Fax No.: _____

Applicant: _____

Address: _____

Telephone No.: _____ Fax No.: _____

Applicant's Representative: _____

Address: _____

Telephone No.: _____ Fax No.: _____

LOCATION

Subject property is generally located (indicate address if any): _____

_____

_____

ZONING

Existing Zoning: _____

Existing Land Use: _____

Land Conservation Contract No.: _____

Williamson Act Contract
Petition for Cancellation (cont.)

PRECISE LEGAL DESCRIPTION (attach separate sheet if necessary)

_____

_____

_____

_____

PARTIAL OR COMPLETE NON RENEWAL FILED?_____

DATE NON RENEWAL FILED: _____

DOES THIS CANCELLATION COVER THE ENTIRE CONTRACT AREA OR A PORTION THEREOF?:
_____

PARCEL NUMBER(S)

County Assessor's Book, Block and Lot Number(s): _____

_____

_____

_____

_____

_____

Williamson Act Contract
Petition for Cancellation (cont.)

PETITIONER'S STATEMENT OF FACTS

Please provide a statement of facts demonstrating how the Petition for Cancellation meets the specified cancellation criteria of the Williamson Act (This statement must include sufficient factual information to allow planning staff, the City Attorney and the City Council to determine whether the necessary findings can be supported. This statement should be as detailed as possible and include reference to supporting evidence and law where appropriate. Please be advised that a petition consisting of conclusory statements, unfounded opinions, or unsupported assumptions will be inadequate for the City Council to make the appropriate findings and may result in non-issuance of a Certificate of Tentative Cancellation):

1. Provide a statement of how the cancellation is consistent with the purposes of the Williamson Act; (i.e., a Notice of Nonrenewal has been served, cancellation is not likely to result in the removal of adjacent lands from agricultural uses; cancellation is for an alternative use which is consistent with the applicable provisions of the City of Modesto Urban Area General Plan; cancellation will not result in discontinuous patterns of urban development; and there is no proximate non-contracted land which is both available and suitable for the alternative proposed use or that development of the subject property would provide more contiguous patterns of urban development than development of the proximate non-contracted land). (Use additional sheets as necessary).

_____

_____

_____

_____

_____

2. Provide a statement of how cancellation is in the public interest. (i.e., other public concerns substantially outweigh the objectives of the Williamson Act; and there is no proximate non-contracted land which is both available and suitable for the alternative use currently proposed for the subject property or that development of the subject property would promote more contiguous patterns of urban development than development of proximate non-contracted land). (Use additional sheets as necessary)

_____

_____

_____

_____

_____

Williamson Act Contract
Petition for Cancellation (cont.)

PROPOSED SPECIFIED ALTERNATIVE USE

Please provide a statement of the proposed specified alternative use for the property. (Suggest attaching Specific Plan documents or Planned Development application.) Ultimate development of the property should be consistent with the proposed specified alternative use; however, this statement is for informational purposes only. Cancellation of a Williamson Act Contract does not constitute approval of a specified alternative land use, site plan or other entitlement. Include a list of public agencies known to the landowner to have permit authority with respect to the specified alternative use.

APPENDIX J
Example of Certificate of Cancellation

Recording requested by:
City of Modesto

When recorded return to:
City of Modesto
Attn.: Stephanie Lopez, City Clerk
1010 10th Street
Modesto, CA 95354

SPACE ABOVE FOR RECORDERS USE ONLY

CERTIFICATE OF TENTATIVE CANCELLATION OF THE

WILLIAMSON ACT LAND CONSERVATION CONTRACT NO. XX-XXX

In accordance with Article 5, Chapter 7, Division 1 of Title 5 (beginning with Section 51280) of the Government Code of the State of California, the City Council of the City of Modesto has granted tentative approval of a petition by _____, hereinafter referred to as LANDOWNER, for cancellation of the following described Land Conservation Contract:

Land Conservation Contract No._____
For Assessor Parcel Nos. _____ totaling approximately ___ acres.

LEGAL DESCRIPTION:

See Attached.

The petition for cancellation was accompanied by a proposal for a specific alternative use of the land, which has been approved by the Modesto City Council by Agricultural Contract No. XXXX adopted by the City Council on_____.

The City Council of the City of Modesto will, in accordance with Government Code Section 51283.4(b), within thirty (30) days of receipt of written notice from landowner that the conditions and contingencies hereinafter set forth have been satisfied, make its determination whether or not such conditions and contingencies are in fact satisfied and, if it determines that they are satisfied, will execute, by its Mayor, a Certificate of Cancellation of that portion of the Agricultural Preserve Contract covering the land described above and cause the same to be recorded.

The conditions and contingencies which must be satisfied prior to execution of a Certificate of Cancellation by the Mayor of the City of Modesto are as follows:

A. The cancellation fee determined in accordance with Government Code Section 51283 to be in the amount of $ _____ shall be paid in full; provided, however, that should a Certificate of Cancellation not be issued within one year from the date of the recording of this

Tentative Certificate of Cancellation, said cancellation fee shall be recomputed as of the date of notice described in subdivision (b) of Government Code Section 51283.4 or the date the landowner requests a recomputation, provided that the City Council concurs that all conditions and contingencies contained herein have been satisfied.

B. The applicant shall obtain all necessary approvals and permits to commence the project as required in Government Code Section 51283.4.

If the landowner has been unable to satisfy the above conditions and contingencies, they shall so notify the City Council of the particular conditions or contingencies which they are unable to satisfy. Within thirty (30) days after receipt of such notice, and upon a determination that the landowner is in fact unable to satisfy such conditions and contingencies, the Modesto City Council, by its Mayor, shall execute a Certificate of Withdrawal of this Certificate of Tentative Cancellation and cause such certificate to be recorded.

APPROVED AND ADOPTED THIS ____ DAY OF _____ ____.

_____
JIM RIDENOUR, MAYOR

ATTEST:

_____
STEPHANIE LOPEZ, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF STANISLAUS) ss
CITY OF MODESTO)

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that at a regular meeting of the City Council of the City of Modesto, held on the _____ day of _____, the foregoing Certificate of Tentative Cancellation was passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

IN WITNESS HEREOF, I have hereunto set my hand and affixed the official seal of the City of Modesto this _____ day of _____.

By:_____ Date: _____
STEPHANIE LOPEZ, CITY CLERK

APPENDIX K
Example of Certificate of Final Cancellation

Recording requested by:
City of Modesto

When recorded return to:
City of Modesto
Attn.: Stephanie Lopez, City Clerk
1010 10th Street
Modesto, CA 95354

SPACE ABOVE FOR RECORDERS USE ONLY

CERTIFICATE OF FINAL CANCELLATION OF

WILLIAMSON ACT LAND CONSERVATION CONTRACT NO. XX-XXX

In accordance with Article 5, Chapter 7, Division 1 of Title 5 (beginning with Section 51280) of the Government Code of the State of California, the City Council of the City of Modesto has granted final approval of a petition by_____, hereinafter referred to as the landowner, for cancellation of the following described Land Conservation Contract:

Land Conservation Contract No. _____
For Assessor Parcel Nos. _____ totaling approximately _____ acres.

LEGAL DESCRIPTION:

See Attached.

On _____, the Modesto City Council approved a Certificate of Tentative Cancellation for Land Conservation Contract No. _____. The petition for cancellation was accompanied by a proposal for a specific alternative use of the land.

On _____, the City of Modesto received written notice from the landowner that the conditions and contingencies set forth in the Certificate of Tentative Cancellation for Land Conservation Contract No. _____ were satisfied. The City Council of the City of Modesto has determined that they are satisfied, and by it Mayor, executes a Final Certificate of Cancellation for Williamson Act Contract No. _____.

The conditions and contingencies that have been satisfied in order to execute a Certificate of Cancellation by the Mayor of the City of Modesto are as follows:

A. The cancellation fee determined in accordance with Government Code Section 51283 to be in the amount of $_____ has been paid in full _____; and

B. All permits necessary to commence the project as required by Government Code Section 51283.4 have been obtained.

APPROVED AND ADOPTED THIS ____ DAY OF ____ ____.

_____
JIM RIDENOUR, MAYOR

ATTEST:

_____
STEPHANIE LOPEZ, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF STANISLAUS) ss
CITY OF MODESTO)

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that at a regular meeting of the City Council of the City of Modesto, held on the _____ day of _____, the foregoing Certificate of Final Cancellation was passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: (INSERT NAMES)

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

IN WITNESS HEREOF, I have hereunto set my hand and affixed the official seal of the City of Modesto this _____ day of _____.

By:_____ Date: _____
STEPHANIE LOPEZ, CITY CLERK CITY

APPENDIX L
Notice to Department of Conservation of Application Acceptance and Public Hearing for Tentative Cancellation

Date

Ms. Bridgett Luther
California Department of Conservation
801 K Street, MS 24-01
Sacramento, CA 95814

Subject: Cancellation of Williamson Act Land Conservation Contract No. _____

Dear Ms. Luther:

In accordance with Government Code Section 51284.1, I am forwarding to you the notice of our acceptance of a Williamson Act Petition For Cancellation Of Contract No. _____ from the _____. Included are copies of the petition, the contract, and description of the land proposed for cancellation. The petition includes, as required by law, a description of the proposed specific alternative uses, the government agencies known by the landowner to have permitting authority over those uses, and a preliminary discussion of the necessary findings.

The tentative cancellation request is scheduled to be heard by the Modesto City Council on _____. The deadline for submitting comments to the City of Modesto on the proposed cancellation pursuant to Section 51284.1(a) is _____. Please address any comments to _____, City of Modesto, Community and Economic Development Department, 1010 10th Street, Modesto, CA 95354.

We look forward to receiving any comments as we prepare for the cancellation of the land contract listed above. If you have any questions or need additional information, please contact the project planner, _____ at _____.

Sincerely,

H. Brent Sinclair, AICP
Director of Community and Economic Development

cc: Dennis O'Bryant, Acting Assistant Director, Division of Land Resource Protection
Susanna Wood, City Attorney

APPENDIX M
Letter to County Assessor Requesting Fair Market Value

Date

Doug Harms
Stanislaus County Office of the Assessor
1010 10th Street
Modesto, CA 95354

RE: Cancellation of Land Conservation Contract _____, _____ acres
APNs: _____

Dear Mr. Harms:

The City of Modesto is requesting the cancellation value and fee amount for the above referenced parcel(s). The property owner(s), _____, have submitted a petition to cancel the existing Land Conservation Contract. The parcel(s) are currently assessed under the terms of the Williamson Act.

Please provide the valuation and fee to the landowner and the Department of Conservation as well as to the City, and inform them of their rights to request formal reviews.

Thank you very much for your assistance. If you have any questions or concerns, please contact _____ at (209) _____.

Sincerely,

H. Brent Sinclair, AICP
Director of Community and Economic Development

cc: Property Owner

APPENDIX N
Letter to County Treasurer Providing Notice of Final Certificate of Cancellation

Date

Gordon B. Ford, Treasurer-Tax Collector
Stanislaus County
1010 10th Street
Modesto, CA 95354

RE: Cancellation of Land Conservation Contract No. _____

Dear Mr. Ford:

The City of Modesto has accepted and recorded the Final Certification of Cancellation of Land Conservation Contract No. _____ on behalf of the landowner.

A copy of the cancellation that the City of Modesto has recorded is enclosed with this letter. Please forward the _____ cancellation fee to the State.

If you have any questions regarding this notice, please contact me at (209) _____.

Sincerely,

H. Brent Sinclair, AICP
Director of Community and Economic Development

Enclosures

APPENDIX O
Letter to Notify Director of Department of Conservation of Certificate of Final Cancellation

Date

Dennis O'Bryant, Acting Assistant Director
Division of Land Resource Protection
California Department of Conservation
801 K Street, MS 18-01
Sacramento, CA 95814

Subject: Final Cancellation of Williamson Act Land Conservation Contract No. _____

Dear Mr. O'Bryant:

Please find the attached Certificate of Final Cancellation for Contract No. _____, approved by the Modesto City Council on _____, and recorded with the Stanislaus County Recorder on _____. Also, please find the Landowner's Statement of Compliance with the material breach provisions of the Williamson Act, also recorded.

If you have any questions or need additional information, please contact me at (209)_____.

Sincerely,

Project Planner

APPENDIX P
Statement of Compliance with the Material Breach Provisions of the Act

Recording requested by:
City of Modesto

When recorded return to:
City of Modesto
Attn.: Stephanie Lopez, City Clerk
1010 10th Street
Modesto, CA 95354

SPACE ABOVE FOR RECORDER'S USE ONLY

LANDOWNER'S STATEMENT OF COMPLIANCE WITH SECTIONS 51250(s)(4) and (5) OF THE GOVERNMENT CODE RELATIVE TO MATERIAL BREACH AND WILLIAMSON ACT CONTRACT TERMINATIONS FOR THE CANCELLATION OF WILLIAMSON ACT CONTRACT NO. _____

To the Mayor and City Council of the City of Modesto:

On _____, _____ _____ acquired the fee title ownership of the real property encumbered by the above referenced Williamson Act Land Conservation Contract on _____. I _____, owner of the real property encumbered by the above referenced Williamson Act Land Conservation Contract make the following Statement of Compliance with Sections 51250 (s)(4) and (5) of the Government Code relative to material breach and Williamson Act Contract Terminations:

1) I am aware of the provisions of the Williamson Act (Section 51250 of the Government Code) relating to material breach of contracts, contained in AB 1492 (Laird) enacted by the legislature in 2003 and effective January 1, 2004.

2) I further understand that the exemption from possible material breach proceedings and penalties contained in Section 51250(s)(2) for specified contract terminations (by cancellation, annexation, protest, or acquisition) does not apply if the land nevertheless continues to be subject to the contract for any reason, including rescission of the terminating action by its maker or permanent invalidation by a court.

Finally, I understand that for the exemption granted by Section 51250(s)(2) to be applicable to my terminated contract, pursuant to Sections 51250(s)(4) and (5), I must sign this statement under penalty of perjury, have it notarized, and file it with the county recorder either:

a) For contract terminations occurring after January 1, 2004, within 30 days after the termination, or
b) For contract terminations having occurred prior to January 1, 2004, prior to the approval of a building permit necessary for the construction of a commercial, industrial, or residential building. No statement is necessary for a building constructed, or permitted by a city or county, prior to January 1, 2004.

Attached hereto is a copy of the code subsection (51250)(s) describing the requirement, along with a copy of a letter from the Department of Conservation approving the required form of the acknowledgement letter.

Sincerely,

_____

_____
Date

State of California
County of Stanislaus

On _____ before me, _____

personally appeared _____
❑ personally known to me -or- ❑ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-197

RESOLUTION APPROVING THE PAYMENT OF CAPITAL FACILITIES FEES BASED ON THE 2003 CAPITAL FACILITIES FEES RATES AND THE PAYMENT OF SEWER BOND REDEMPTION CHARGES IN LIEU OF WASTEWATER CAPACITY CHARGES FOR BUILDING PERMITS ISSUED BY AUGUST 22, 2010, FOR NEW SINGLE-FAMILY HOMES ON THE ELEVEN REMAINING UNDEVELOPED LOTS OF ANDREA ESTATES SUBDIVISION, AND AUTHORIZING A REFUND OF $15,228 FROM THE CAPITAL FACILITIES FEES REVENUE FUND AND $17,624 FROM THE WASTEWATER FUND

WHEREAS, Roger Preston ("applicant") filed an application for a vesting tentative subdivision map, Andrea Estates, to divide approximately 4.38 acres, located on the west side of Walnut Way north of Mimi Way, into 20 single-family residential lots, and

WHEREAS, said vesting tentative map was received in the office of the Secretary of the Planning Commission on November 21, 2005, and was accepted for filing and deemed complete on January 9, 2006, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code, and

WHEREAS, said vesting tentative map is vested against the 2006 Capital Facilities Fees (CFF) program and the 2007 Wastewater Capacity Charges, which were adopted on January 25, 2006 and May 8, 2007, respectively, and

WHEREAS, the City of Modesto Planning Commission approved said vesting tentative map on February 6, 2006, and

WHEREAS, a final map of Andrea Estates Subdivision was recorded on August 22, 2007, and

WHEREAS, under Section 4-4.405(c)(1) of the Modesto Municipal Code, the development rights conferred by a vesting tentative map remain in effect for two years following the recording of a final map, and

WHEREAS, Section 4-4.405(c)(1) also provides for a single one-year extension of vesting rights if applied for by the subdivider prior to expiration of the two-year period and if approved by the Planning Commission, and

WHEREAS, the applicant did not apply for an extension of vesting rights for the Andrea Estates subdivision, and therefore the vesting rights expired on August 22, 2009, two years from the date of recordation of the map, and

WHEREAS, prior August 22, 2009, the applicant paid CFF and wastewater fees based on the map's vesting and received building permits for the development of five of the lots in the subdivision, and

WHEREAS, subsequent to the vesting expiring the applicant paid CFF and Wastewater Capacity Charges at current rates and received building permits for four lots in the subdivision, said four lots being 753, 757, 761 and 801 Walnut Way, and

WHEREAS, on March 9, 2010, the applicant submitted a request for an extension of vesting rights for the Andrea Estates subdivision to August 22, 2010, citing the hardships created by the higher CFF fees and Wastewater Capacity Charges, and

WHEREAS, applicant also requests a refund of the difference between the CFF and wastewater fees currently in effect and the equivalent charges that he would have paid had his vesting remained in effect for the four lots where current fees were paid, and

WHEREAS, California Government Code Section 66498.5 does not allow for an extension of vesting rights after the initial two-year period prescribed by the Modesto

Municipal Code has expired, but does not prevent the City from allowing the applicant to pay CFF fees and wastewater connection fees based on the fees in effect at the time the map was vested until August 22, 2010, and granting the requested refund, which would have the same effect as an extension of vesting as it relates to the application of said fees, and

WHEREAS, said request was by the City Council on May 11, 2010, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, after consideration of the request the Council finds and determines that the request to allow the payment of CFF based on the 2003 CFF program and the payment of Sewer Bond Redemption Charges in lieu of payment Wastewater Capacity Charges for the eleven remaining lots in the Andrea Estates subdivision until August 22, 2010, and the refund of the difference between the 2006 and 2003 CFF fees, and the difference between the Wastewater Connection Charges and the Sewer Bond Redemption charges, for four previously-developed lots in the subdivision, will not negatively impact the 2006 CFF and Wastewater Capacity Charge programs, because both programs took into account that the Andrea Estates subdivision was vested against these fee programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

1. All building permits for development of new single-family dwellings on Lots 10 – 20 of Block 3047 of the Andrea Estates Subdivision (Map No. 43-M-69) for which a complete application for a building permit has been submitted prior to August 22, 2010, shall be allowed to pay Capital Facilities Fees based on the 2003 Capital Facilities Fees program and to pay the Sewer Bond Redemption charges in lieu of payment of Wastewater Capacity Charges.

2. A refund of $15,228 from the Capital Facilities Fees Revenue Account and $17,624 from the Wastewater Connection Account, as detailed in

Exhibit A, be issued to Roger Preston for 753, 757, 761 and 801 Walnut Way.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of May, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A: Revenue Fund Sources for Refund of CFF and Wastewater Connection Fees

Andrea Estates: BLD 2009-72346, BLD 2009-72257, BLD 2010-80519, & BLD 2010-80521
Land Use Category: Single-Family Home
CFF Program: 2006

		Permit Total:	**$**	**15,228.00**
CFF Revenue Account		**%**		**Amount**
Police	1310-190-1999-4166	4.70%	$	715.72
Fire	1320-180-1899-4166	2.00%	$	304.56
Parks	1350-310-3199-4166	32.00%	$	4,872.96
Govt	1380-490-4999-4166	2.64%	$	402.02
Admin	1390-140-0260-4166	1.50%	$	228.42
Street	1410-430-4399-4166	47.40%	$	7,218.07
Transit	1420-165-1699-4166	0.50%	$	76.14
AQ	1430-310-3198-4166	9.26%	$	1,410.11
		100.00%	**$**	**15,228.00**

Wastewater Connection Account
6211-440-5205-4352 **$17,624.00**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-198

A RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S LOCAL TRANSPORTATION FUND (LTF) NON-TRANSIT SUPPLEMENTAL CLAIM FOR FISCAL YEAR 2008-2009, IN THE AMOUNT OF $317,451, TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the City that Supplemental Local Transportation Funds (LTF) funds have been apportioned by StanCOG for allocation to the City, and

WHEREAS, the City has prepared its Supplemental LTF Claim for Fiscal Year 2008-2009 pursuant to Articles 4 and 8 of Chapter 4 of Part 11, Division 10 of the California Public Utilities Code, 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 LTF funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submission of the City's Local Transportation Fund Non-Transit Supplemental Claim for Fiscal Year 2008-2009, in the amount of $317,541, to the Stanislaus Council of Governments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-199

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO REDUCE EXPENDITURE APPROPRIATIONS FOR E691 TRAFFIC OPERATIONS BUILDING–TENANT IMPROVEMENTS IN THE AMOUNT OF $99,066, AND TO RECOGNIZE NEW LOCAL TRANSPORTATION FUND (LTF) REVENUE IN THE AMOUNT OF $317,451 WITH $308,657 GOING TO THE "TRAFFIC OPERATIONS BUILDING-TENANT IMPROVEMENTS," (E691) PROJECT AND $8,794 GOING TO THE "VIRGINIA CORRIDOR (P365) PROJECT

WHEREAS, the current budget for project E691 is $500,000, and

WHEREAS, current cost estimates are $400,934, and

WHEREAS, amending the CIP budget is necessary to decrease the appropriations to Account No. 0510-160-E691 in the amount of $99,066, and

WHEREAS, Stanislaus Council of Governments has notified the City that $317,451 in Local Transportation Funds has been apportioned to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Capital Improvement Program budget to reduce expenditure appropriations for 0510-160-E691 "Traffic Operations Building-Tenant Improvements" project, in the amount of $99,066, and to recognize new Local Transportation Fund revenue in the amount of $317,451.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-200

RESOLUTION APPROVING THE PROGRAM GUIDELINES AND LOAN TERMS FOR THE NEIGHBORHOOD STABILIZATION PROGRAM 2; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE MEMORANDUMS OF UNDERSTANDING, LOAN DOCUMENTS, AND ANY OTHER RELATED DOCUMENTS NECESSARY TO IMPLEMENT THE PROGRAM

WHEREAS, on May 4, 2009, the U.S. Department of Housing and Urban Development (HUD) issued a Notice of Funding Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2), and

WHEREAS, the City of Modesto made application to HUD for funding and was informed by HUD on January 14, 2010, that the City of Modesto had been granted $25 million under the NOFA for NSP2, and

WHEREAS, the City Council accepted the grant award at their meeting of January 25, 2010, and

WHEREAS, the City Manager executed the NSP2 grant agreement on February 17, 2010, and

WHEREAS, staff has developed guidelines for allocating the NSP2 funding based on the activities outlined in the approved City of Modesto Neighborhood Stabilization grant application, and

WHEREAS, these guidelines and loan terms were reviewed and approved by the Citizens Housing & Community Development Committee (CH&CDC) at its April 21 2010, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the program guidelines and loan terms for the Neighborhood

Stabilization Program 2 as described on **Attachment 1**, a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to sign the Memorandums of Understanding, loan documents, and any other related documents necessary to implement the program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

NEIGHBORHOOD STABILIZATION PROGRAM 2
GUIDELINES & LOAN TERMS

PROPERTY PURCHASES MADE UTILIZING NSP2 FUNDS

- Properties are purchased by for-profit and non-profit developers who have been qualified by CH&CDC
- Properties purchased under the program must meet NSP2 definitions for foreclosed or abandoned residential properties
  - Property acquisition price may not exceed 150% of the area median sales price per (DataQuick) and preference will be given to those properties at or below 100% of the area median sales price.
  - Acquisition cost must be a minimum of 1% under appraised value
- Short sales are permitted per HUD regulation and under the following circumstances
  - Property is owner-occupied **and** will meet income-eligibility requirements, **or**
  - Property has been vacant for 90 days
- Separate loans will be made for acquisition and rehabilitation with both approved by a sub-committee of CH&CDC
- All rehabilitation work must be done to HUD Housing Quality Standards (HQS)

FOR-PROFIT DEVELOPER – RENTAL PROPERTIES

- Except for the affordability period and leveraging requirement, the loan terms are the same as NSP1:
  - 25-year affordability period (increased from 15-years)
  - 40-year loan period
  - Payments on acquisition and rehabilitation are deferred for first 5 years with no interest or payments made
  - Year 6 payments begin on acquisition costs amortized over 35 years at 3% interest
  - Year 16 payments begin on rehabilitation costs amortized over 25 years at 3% interest
- Developer leveraging of 20% on total project cost is required (up from 10% in NSP1)
- At the sole discretion of the City, in the event the affordability covenant is fulfilled at the end of the fifteen year term, the rehabilitation portion of the loan will be forgiven if the property is sold to a qualifying low-income household.

NEIGHBORHOOD STABILIZATION PROGRAM 2
GUIDELINES & LOAN TERMS

NON-PROFIT DEVELOPER – RENTAL PROPERTIES

- Except for the longer affordability period, the loan terms are the same as NSP1:
  - Payments are deferred for 25 years (increased from 15 year)
  - If affordability period is maintained, loan is forgiven in full
  - If affordability is not maintained, the loans are immediately due in full

DEVELOPERS – RESALE OF PROPERTIES TO QUALIFIED HOUSEHOLDS

- New appraisal is required after rehabilitation work by developer is complete
- Upon second escrow closing, developer is eligible for developer fee
- For all properties except properties located in census tracts within the Airport Revitalization Strategy Area, the developer fee is:
  - $10,000 per property, **or**
  - $15,000 per property if property is determined to meet the "blight" definition per Federal regulation and as determined through and acceptable third-party home inspection summary report
- For Airport Neighborhood properties, the developer fee is:
  - $15,000 per property, **or**
  - $20,000 per property if property is determined to meet the HUD "blight" definition and as determined through an acceptable third-party home inspection summary report.
- The obligations of the developer towards the acquisition and the rehabilitation loans are released when transferred (either fully or partially) to the new buyer at the close of escrow
- Closing costs, new appraisal costs, and developer fees are considered program costs and are not included in either of the developer loans

BLIGHTED STRUCTURE: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

QUALIFYING HOUSEHOLDS

- Homebuyers will meet criteria similar to that established for the City's Homebuyer's Assistance Program, which includes these homebuyer requirements:
  - Must be at or below 120% of the area median income
  - Must reside in or work within the city limits of Modesto

NEIGHBORHOOD STABILIZATION PROGRAM 2
GUIDELINES & LOAN TERMS

  - Home being purchased must have been purchased and rehabilitated using the City's NSP2 funds
  - Must have a minimum FICO credit score of 620
  - Must complete 8 hours of homebuyer counseling through a HUD approved counseling agency
  - Must commit 1% of the purchase price
- Homebuyers will have a new loan based on the value established in the second appraisal but not to exceed the total investment in the property (acquisition plus rehabilitation)
  - Maximum 30-year loan period (available in 5-year increments)
  - Monthly payment may not exceed 30% of qualifying income and total debt to income ratio cannot exceed 43% per FHA standards
- Homebuyers are "qualified" for homes up to a certain value as established by their qualifying income

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-201

RESOLUTION APPROVING THE SCOPE OF WORK AND BUDGET FOR COMMUNITY DEVELOPMENT BLOCK GRANT – RECOVERY (CDBG-R)-FUNDED PUBLIC SERVICES PROJECT DESIGNED TO BRING ABOUT ECONOMIC DEVELOPMENT AND COMMUNITY CAPACITY-BUILDING IN THE AIRPORT NEIGHBORHOOD; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH ORVILLE WRIGHT ELEMENTARY SCHOOL HEALTHY START SITE/FAMILY RESOURCE CENTER TO CARRY OUT THE PROJECT

WHEREAS, the Airport Neighborhood is a City-designated, HUD-approved Neighborhood Revitalization Strategy Area (NRSA) which offers enhanced regulatory flexibility in undertaking comprehensive housing, community, and economic development activities with Community Development Block Grant (CDBG) funds, and

WHEREAS, the City has developed extensive collaborative relationships with public agencies, community-based organizations, faith-based organizations, nonprofit service providers, schools, and individuals, including neighborhood residents, and

WHEREAS, a CDBG-R-funded Airport Neighborhood Economic Development/Community Capacity-Building Project will be integrated as a critical part of the larger NRSA strategy, and

WHEREAS, the service delivery and project process will be incorporated through traditional service delivery structure, to deliver and broker economic development services and resources to individual unemployed and underemployed residents as well as through self-help group processes, and

WHEREAS, this process will ensure economic development sustainability beyond the term of CDBG-R funding, as it is designed to promote self-sufficiency and

community capacity through skill-building, microenterprise development, and leadership development.

WHEREAS, the project will also leverage other CDBG-funded economic development activities designed to further job creation, such as Orville Wright Elementary School Healthy Start Site/Family Resource Center and small business/microenterprise development,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the scope of work and budget for Community Development Block Grant – Recovery (CDBG-R)-funded Public Services project designed to bring about economic development and community capacity-building in the Airport Neighborhood.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute an agreement with Orville Wright Elementary School Healthy Start Site/Family Resource Center to carry out 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 May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-202

RESOLUTION APPROVING EXTENDING THE TERM OF ED BEARDEN AS POET LAUREATE OF THE CITY OF MODESTO THROUGH JUNE 30, 2012

WHEREAS, on July 13, 1993, the City Council, by Resolution No. 93-412, established a non-salaried honorary position to be known as "The Poet Laureate of the City of Modesto", and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, on June 24, 2008, the City Council, by Resolution 2008-351, appointed Ed Bearden as the Poet Laureate of the City of Modesto for a two-year term from July 1, 2008 to June 30, 2010, and

WHEREAS, the Culture Commission has concluded that Ed Bearden has appropriately fulfilled his obligation as Poet Laureate during the past two years and recommend that his term be extended, and

WHEREAS, the Safety & Communities Committee met on April 5, 2010, and supported extending the term of Ed Bearden as Poet Laureate for the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the term of Ed Bearden as the Poet Laureate of the City of Modesto through June 30, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-203

A RESOLUTION ACCEPTING THE CALIFORNIA MARIJUANA ERADICATION GRANT FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION IN THE AMOUNTY OF $15,000 FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, on April 1, 2010, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $15,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the term of this grant will be from January 1, 2010 through December 31, 2011, and

WHEREAS, the City of Modesto will be the fiscal agent,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Marijuana Eradication Grant from the U. S. Department of Justice Drug Enforcement Adminsitration in the amount of $15,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-204

A RESOLUTION AMENDING THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY'S FISCAL YEAR 2010/11 OPERATING BUDGET ESTIMATING REVENUE IN THE AMOUNT OF $15,000 FROM THE U. S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION MARIJUANA ERADICATION GRANT

WHEREAS, on April 1, 2010, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $15,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the City of Modesto will be the fiscal agent,

WHEREAS, the term of this grant will be from January 1, 2010 through December 31, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the the Stanislaus County Drug Enforcement Agency's Fiscal Year 2010/11 Operating Budget as indicated on **Attachment A**, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No: 572-9518
Department: Police Department
Council Action Date:
Resolution Number:
FY: 09-10
Fund Title: 8850 - SDEA
Transfer No.:

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
MY-8850-190-2503-3508			$15,000	$15,000	Domestic Cannabis Eradication/Suppression Grant Federal Grant
APPROPRIATIONS					
FROM					
TO					
MY-8850-190-2503-0209	2503-C		$5,000	$5,000	Training Expenses
MY-8850-190-2503-0308	2503-C		$2,000	$2,000	Tools, Shop and Field Supplies
MY-8850-190-2503-0330	2503-C		$3,000	$3,000	Fuel, Oil and Lubricants
MY-8850-190-2503-0416	2503-C		$5,000	$5,000	Other Insurance
			$15,000		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget ammendment is being made to: 1) Recognize federal grant revenue awarded to the Stanislaus Drug Enforcement Agency in the amount of $15,000 for the Domestic Cannabis Eradication/Suppression Program and; 2) To program offsetting expenses as outlined in the grant program document These actions will establish a new multi-year operating budget beginning in FY 2009-10.

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		
DIVISION CAPTAIN		
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)		

TRANSFER NO.:

BY: DATE:

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-205

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO FOR A JOINT APPLICATION TO THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FORMULA PROGRAM IN THE AMOUNT OF $235,816; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF AGREEMENT

WHEREAS, the U.S. Department of Justice announced in April of 2010 that the Office of Justice Programs' Bureau of Justice Assistance was seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, and

WHEREAS, the JAG Program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions, and

WHEREAS, the Modesto Police Department and Stanislaus County are required to submit a joint application for a total eligible allocation of $235,816, and

WHEREAS, the Modesto Police Department is eligible to apply for $157,828 and Stanislaus County is eligible for $77,988, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, recommended distribution of the 2010 JAG funds is as follows:

Probation	$ 17,988
Sheriff	$ 60,000
Sheriff (Administrative Fee)	$ 4,735
Modesto Police Department	$153,093

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of $4,735 to cover the reporting costs associated with the grant which reduces the City's total projected grant award to $153,093 ($157,828 less the 3% administrative fee of $4,735), and

WHEREAS, there is no match required for this grant, and

WHEREAS, the grant application requires a signed Memorandum of Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of $235,816.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-206

A RESOLUTION INCREASING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE "ADVANCED TRAFFIC MANAGEMENT SYSTEM (ATMS) EXPANSION PELANDALE AVENUE" PROJECT BY $12,470.43 FROM 10% ($25,510.00) TO 14.9% ($38,000.00) OF THE ORIGINAL CONTRACT PRICE WITH SIERRA NATIONAL CONSTRUCTION, INC. TO FUND THE CHANGE ORDER WORK

WHEREAS, the City Council, on June 8, 2008, by Resolution No. 2008-417, awarded a $255,105.00 contract to Sierra National Construction, Inc. for the installation of ten (10) CCTV traffic surveillance cameras at five (5) locations, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work has been estimated to be $16,000.00, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $25,510.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Director of Utility Planning and Projects' authority to issue change orders on the Advance Traffic Management System (ATMS) Expansion Pelandale Avenue project by $12,470.43 from 10% ($25,510.00) to 14.9% ($38,000.00) of the original contract price with Sierra National Construction, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-207

A RESOLUTION APPROVING AN AGREEMENT WITH MILLER-PEZZONI & ASSOCIATES, INC. (MILLER-PEZZONI) FOR ON-CALL ELECTRICAL ENGINEERING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $70,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division performs a number of tasks requiring electrical engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted electrical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to electrical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Electrical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, three (3) Statements of Qualifications were received and the firm of Miller-Pezzoni was deemed the most qualified to provide the requested on-call electrical engineering services, and

WHEREAS, based on the City's previous experience, Miller-Pezzoni has rendered satisfactory services to the City in past projects, and

WHEREAS, Miller-Pezzoni will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Miller-Pezzoni will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Miller-Pezzoni prior to commencement of services, and

WHEREAS, City staff recommends an On-call Electrical Engineering Services Agreement with Miller-Pezzoni be approved, and

WHEREAS, Miller-Pezzoni will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Miller-Pezzoni & Associates, Inc. for On-call Electrical Engineering Services for various City projects for one -year, with two (2) one (1) year extension options, in an amount not-to-exceed $70,000 per year. Total cost for three years is not to exceed $210,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Agreement, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-208

A RESOLUTION APPROVING AN AGREEMENT WITH NEXUS ENGINEERING (NEXUS) FOR ON-CALL MECHANICAL ENGINEERING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division performs a number of tasks requiring mechanical engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted mechanical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to mechanical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Mechanical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, two (2) Statements of Qualifications were received and the firm of Nexus was deemed most qualified to provide the requested on-call mechanical engineering services, and

WHEREAS, based on the City's previous experience, Nexus has rendered satisfactory services to the City in past projects, and

WHEREAS, Nexus will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Nexus will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Nexus prior to commencement of services, and

WHEREAS, City staff recommends an On-call Mechanical Engineering Services Agreement with Nexus be approved, and

WHEREAS, Nexus will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Nexus Engineering for On-call Mechanical Engineering Services for various City projects for one -year, with two (2) one (1) year extension options, in an amount not-to-exceed $45,000 per year. Total cost for three years is not to exceed $135,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Agreement, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-209

A RESOLUTION APPROVING AN AGREEMENT WITH TO KLEINFELDER WEST, INC. (KLEINFELDER) FOR ON-CALL GEOTECHNICAL ENGINEERING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division performs a number of tasks requiring geotechnical engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Utility Planning and Projects Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted geotechnical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to geotechnical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Geotechnical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, three (3) Statements of Qualifications were received and the firm of Kleinfelder was deemed the most qualified to provide the requested on-call geotechnical engineering services, and

WHEREAS, based on the City's previous experience, Kleinfelder has rendered satisfactory services to the City in past projects, and

WHEREAS, Kleinfelder will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Kleinfelder will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Kleinfelder prior to commencement of services, and

WHEREAS, City staff recommends an On-call Geotechnical Engineering Services Agreement with Kleinfelder be approved, and

WHEREAS, Kleinfelder will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Kleinifelder West, Inc. for On-call Geotechnical Engineering Services for various City projects for one -year, with two (2) one (1) year extension options, in an amount not-to-exceed $45,000 per year. Total cost for three years is not to exceed $135,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Agreement, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-210

A RESOLUTION APPROVING AN AGREEMENT WITH VSCE, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE MODESTO BUS MAINTENANCE FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $1,096,293.86 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $109,629.39 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,205,923.25, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The City of Modesto is currently nearing the construction phase of the Modesto Bus Maintenance Facility Project, and

WHEREAS, The facility will service and accommodate 70 transit vehicles, featuring a new bus parking area, new bus maintenance building, fuel station, bus wash, and off-street employee parking, and

WHEREAS, due to the complexity and amount of staff hours to support the construction of these improvements, a construction management firm was required for management of this project, and

WHEREAS, staff is therefore recommending the approval of an agreement with VSCE, Inc. for construction management services, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with VSCE, Inc. for Construction Management Services for the Modesto Bus Maintenance Facility project in an amount not to exceed $1,096,293.86 for the identified scope of services, plus $109,629.39 for additional services (if needed), for a maximum total amount of $1,205,923.25.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-211

Print

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(591) (L STREET ARCHITECTS LIMITED)

WHEREAS, a verified application for an amendment to Section 28-3-9 of the Zoning Map was filed by L Street Architects Limited on January 15, 2010, to reclassify from General Commercial Zone, C-2 and High-Density Residential R-3, to Planned Development Zone, P-D(591) to allow a car wash, property located on the east side of McHenry Avenue, south of Morris Avenue, described as follows:

C-2 to P-D(591)

All that portion of Block 562, City of Modesto, County of Stanislaus, State of California, located in a portion of the Northwest one-quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

The westerly 135 feet of Lots 17 and 18 in Block 562, City of Modesto, according to the Map thereof, filed in Volume 15 of Maps, Stanislaus County Records;

Also including the southerly one-half of 60 foot wide east Morris Avenue and the easterly one-half of 80 foot wide McHenry Avenue, all being immediately adjacent to the above described property.

R-3 to P-D(591)

All that portion of Block 562, City of Modesto, County of Stanislaus, State of California, located in a portion of the Northwest one-quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

The easterly 114 feet of Lots 17 and 18 in Block 562, City of Modesto, according to the Map thereof, filed in Volume 15 of Maps, Stanislaus County Records;

Also including the southerly one-half of 60 foot wide east Morris Avenue immediately adjacent to the above described property.

WHEREAS, after a public hearing held on April 5, 2010, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2010-09, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to P-D is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "C" (Commercial), and the rezoning to allow a car wash development will be consistent with the General Plan land use and intensity.
2. The conditions of approval will ensure that the proposed project is compatible with the adjacent commercial and future residential uses.
3. The proposed rezone will eliminate having more than one zoning designation on a single parcel in this location.

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 25, 2010, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of L Street Architects Limited for a Planned Development Zone should be granted as consistent with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2010-09 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3528-C.S. on the 25th day of May, reclassifying the above-described property from General Commercial Zone, C-3 and High-Density Residential R-3 to Planned Development Zone, P-D(591),

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(591), is hereby approved subject to the following conditions:

PLANNING

1. Prior to occupancy of any structure, a 10-foot high decorative masonry wall with cap treatment along the east property line shall be constructed, to the satisfaction of the Director of Community and Economic Development.

2. Prior to issuance of a building permit, a wall plan for the ten-foot-high wall along the eastern property line shall be submitted by the applicant. The plans shall indicate materials, colors and height of the proposed wall.

3. Prior to occupancy of any structure, walls shall be treated with a graffiti-proof coating along the eastern property line to the satisfaction of the Director of Community and Economic Development or Designee. Construction drawings shall note the type of graffiti treatment used.

4. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Director of Community and Economic Development.

5. All drive-thru facilities shall be screened from McHenry and Morris Avenues with landscaped materials, to the satisfaction of the Director of Community and Economic Development.

6. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are be completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.

7. Prior to issuance of a building permit, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Director of Community and Economic Development.

8. All signs shall comply with the sign requirements of the C-3 Zone.

9. No wall signs shall be permitted on the east elevations on all buildings.

10. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development. Equipment shall be placed underground or adequately screened though the use of landscaping or walls.

PARKS

11. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Director of Parks, Recreation and Neighborhoods or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

12. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years).

13. The applicant shall install screen landscaping along the eastern property line as approved by the Director of Parks, Recreation and Neighborhoods.

LAND DEVELOPMENT ENGINEERING

14. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

15. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.

16. 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.

17. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.

18. Prior to issuance of a building permit, the applicant shall provide an irrevocable offer of street dedication on McHenry and Morris Avenues that reflects the approved site plan as stamped by the City with approximately 21 feet on McHenry Avenue and tapering east to rear property on Morris Avenue to the satisfaction of the City Engineer or designee to alleviate a health, safety, or traffic problem in the area. The irrevocable offer of dedication shall include a provision requiring the removal of all business signage located in the right-of-way, at the request of the City Engineer or designee. The costs of removing the signage shall be borne by the owner.

STORMWATER QUALITY

19. Prior to the issuance of a Grading or Building Permit, whichever occurs first, the Developer shall provide plans for trash enclosures:

a. To be sufficiently elevated to prevent stormwater run-off from the parking lot, and

b. To be graded to drain to adjacent landscape areas.

20. Prior to the issuance of a Grading or Building Permit, whichever occurs first, the Developer shall submit a plan to retain and infiltrate stormwater runoff onsite, incorporating pervious landscape features into the project design wherever possible.

21. Prior to the issuance of a Grading or Building Permit, whichever occurs first, the Developer shall provide one copy of the project Stormwater Pollution Prevention Plan (SWPPP) to Land Development Engineering, to the satisfaction of the City Engineer or designee.

22. Prior to the issuance of a Grading or Building Permit, whichever occurs first, the Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater runoff from the site, to the satisfaction of the City Engineer or designee.

23. Prior to the issuance of a Grading or Building Permit, whichever occurs first, the property owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering for recording, to the satisfaction of the City Engineer or designee.

GENERAL CONDITIONS

24. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "Prime Shine Express Carwash" stamped approved by the City Council.

25. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.

26. All department Conditions of Approval for the project shall be included on the sheet following the title sheet, which shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.

27. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.

28. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street

improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Division.

29. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorney's fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

30. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.

31. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

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:

32. AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

33. AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

34. AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

35. AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

36. AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

37. AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

38. AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

39. AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

40. AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

41. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

42. AQ-51: Limit traffic speeds on unpaved roads to 15 mph.

43. AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

44. AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

45. AQ-54: Install wind breaks at windward side(s) of construction areas.

46. AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

47. AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

48. N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

49. 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.

50. MEIR Table V-8-1 (b-f)

a. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

b. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

c. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

d. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

e. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(591):

The entire construction program be accomplished in one phase, construction to begin on or before May 25, 2010, and completion to be not later than May 25, 2012.'

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(591), becomes effective.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on May 25, 2010, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

By: _____
Community & Economic Development Department
Planning Division

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-212

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 28-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL ZONE, C-2, AND HIGH-DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(591), PROPERTY LOCATED ON THE EAST SIDE OF MCHENRY AVENUE, SOUTH OF MORRIS AVENUE. (L STREET ARCHITECTS LIMITED)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, L Street Architects Limited has proposed that the zoning designation for property located on the east side of McHenry Avenue, south of Morris Avenue be amended to rezone from General Commercial, C-2 and High-Density Residential Zone, R-3, to Planned Development Zone, P-D(591), in the City of Modesto ("the Project) to allow for a car wash, 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 2010-07 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project to deter-

mine 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 May 5, 2010, 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 May 25, 2010, 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(591), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-07

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010-07

For the proposed:

Rezone to Planned Development, (P-D) to Develop a Prime Shine Carwash

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

1-29-2010

Updated: October 2008

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APPENDICIES

A. Bob Degrasse, AIA, LEED AP, *Letter to David Wage, Associate Planner February 18, 2010.*

B. J.C. Brennan & Associates, Inc, *Prime Shine Express – Ceres, CA Environmental Noise Analysis* P. 3-10, Appendix B-E (2006).

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Fire Station No. 2 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Rezone to Planned Development, (P-D) to Develop a Prime Shine Carwash

B. Address or Location: Southeast Corner of McHenry Ave. and Morris Ave.

C. Applicant: L Street Architects Limited 1414 L Street Modesto, CA 95353

D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5302
E-mail address: Dwage@modestogov.com

E. Current General Plan Designation(s): Commercial (C)

F. Current Zoning Classification(s): General Commercial (C-2), High-Density Residential (R-3)

G. Surrounding Land Uses:

North: General Commercial (C-2)
South: General Commercial (C-2)
East: Vacant, zoned for High-Density Residential (R-3) uses
West: General Commercial (C-2)

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 development includes a drive-through car wash and sixteen self-service vacuum stations. The site will be accessed from a new driveway on Morris Avenue. The applicant is proposing ten-foot-high wall along the eastern property line. As a condition of approval, the applicant is required to provide an irrevocable offer of dedication for approximately 21 feet of right-of-way on McHenry Avenue. The future right-of-way will be landscaped as an interim treatment, until the right-of-way is needed for McHenry Avenue.

I. Other Public Agencies Whose Approval is Required:
None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Dan Wagel — Associate Planner — 4/22/10

Project Manager — Title — Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	[ ]	[ ]	[ ]	[X]
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ ]	[ ]	[X]
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	[ ]	[ ]	[ ]	[X]
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.	[ ]	[ ]	[ ]	[ ]

Discussion:

(1 & 3) The proposed project is consistent with the General Designation and the traffic volumes assumed in the MIER. The project will not result in an increase 100 additional trips than what was assumed in the MIER or degradation below LOS D and therefore no new mitigation measures are necessary.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(4) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(5) The City does not have an established parking ratio for a car was. City staff has reviewed the project and determined the project has provided sufficient parking for the proposed drive-through car wash and small detail shop.

(6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.

(7) The proposed project is would not result in an increase in energy consumption in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-40 and AQ-42 through AQ-56 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
5) The proposed project would create objectionable odors affecting a substantial number of people.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The land uses proposed are not in themselves significant contributors to air pollution levels and therefore the primary source of air pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There mitigation to be applied to this project includes N-3 and N-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	[ ]	[ ]	[X]	[ ]
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	[ ]	[ ]	[X]	[ ]
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR.implementation of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1,2,3) The project is consistent with the noise policies of the General Plan. General Plan MEIR Mitigation Measure N-7 requires non-residential development to demonstrate that the project will incorporate measures to reduce noise impacts to a less than significant level. Consideration must be given to both the Commercial threshold of significance and the Multi-family residential threshold of significance, since the property to the east is designated High-Density Residential (R-3). The MIER maintains the "normally acceptable" level of noise for Commercial uses is 70dBA, while the "conditionally acceptable" is up to 75dBA. The "conditionally acceptable" level may be used when noise mitigations have been included in the project design. The "normally acceptable" Multi-family residential threshold is 65dBA, while the "conditionally acceptable" level is up to 70dBA. The exterior noise level is measured at the common outdoor recreation areas for Multi-Family developments (MEIR Mitigation Measure N-4).

A noise study was completed by J.C. Brennan & Associates, Inc. using measurements taken at a Prime Shine located at the southeast corner of Pelandale Ave. and Dale Ave in 2006. The study was originally used to model noise levels for a proposed Prime Shine in Ceres, CA. Based on the similar building design and equipment used at all Prime Shine locations, the study can be used to determine impacts of the proposed car wash at McHenry Ave. and Morris Ave. The study determined the primary noise sources associated with car wash operations are the drying cycle within the car wash tunnel and the operation of vacuums.

Vacuums

The Prime Shine proposes eight vacuum islands, each containing two self-service vacuums. The 2006 noise study measurements estimated a range of 66dBA to 70dBA at a range of 16 feet. This measurement is within the 70dBA threshold for commercial development. The noise study shows the vacuums exceed the "normally acceptable" threshold of 65dBA; however, this project has located the vacuums approximately 30 feet away from the property line to the east and 75 feet from property line to the north. The 75 foot setback to the north is anticipated to reduce the noise level by 6dBA to 12dBA. In addition, a 10-foot-high wall will be located along the eastern property line. The incorporation of the wall alone will reduce the noise impacts by 6.7 to 8.7 dBA for the property to the east. [1] With the inclusion the noise mitigations discussed above, the noise levels associated with the vacuums will not exceed Commercial or Residential thresholds.

[1]J.C. Brennan & Associates, Inc, *Prime Shine Express – Ceres, CA Environmental Noise Analysis* (2006), Appendix E Barrier Insertion Noise Loss Calculation.

Car Wash Operations

The Prime Shine facility on Dale Ave. produced average noise levels of 75dBA at 50 ft. and 90 degrees from the tunnel exit.[2] 75dBA is within "conditionally acceptable" noise level for commercial development. The proposed Prime Shine at McHenry and Morris Avenues has included additional noise mitigating noise features to reduce the noise impacts. The noise reducing features include a roof structure over the drying area designed to shield noise. This design feature was included as potential noise mitigation in the noise study for the Prime Shine on Dale Ave. In addition, this site will only be using eight driers rather than the nine used in the facility studied for the 2006 noise study. Finally, the eight driers proposed are custom designed to reduce noise levels by an estimated 12.5%.[3] With the inclusion of the design features described above, the project will be below the acceptable 70dBA threshold for commercial development. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

The car wash noise levels are projected to be within the thresholds for residential development. The existing homes to the north are approximately 180 away from the tunnel exit. The noise reduction over this distance is expected to be greater than 18dBA. In addition to the noise mitigating features described above; the project will also include a ten-foot-high wall along the eastern property line which is projected to reduce noise levels by 8.7 to 9.9 dBA.[4] The combination of noise mitigating features will reduce the noise levels below the 65dBA threshold for residential development. It should also be noted that the exterior noise level is measured at the common outdoor recreation areas for Multi-Family developments (MEIR Mitigation Measure N-4). A future multi-family development to the east could locate the common outdoor recreation areas where they would be further sheltered by landscaping, buildings, or other design features. Staff is satisfied the proposed project does not create a significant noise impact and a future multi-family development could meet the 65dBA threshold.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

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[2] J.C. Brennan & Associates, Inc, *Prime Shine Express – Ceres, CA Environmental Noise Analysis* (2006), 9.
[3] Bob Degrasse, AIA, LEED AP, *Letter to David Wage, Associate Planner February 18, 2010.*
[4] J.C. Brennan & Associates, Inc, *Prime Shine Express – Ceres, CA Environmental Noise Analysis* (2006), Appendix E Barrier Insertion Noise Loss Calculation.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	[ ]	[ ]	[ ]	[X]
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	[ ]	[ ]	[ ]	[X]
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	[ ]	[ ]	[ ]	[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. The site is currently vacant and no agricultural land will be converted for the development of the proposed projects.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

(3) 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 General Plan designates the property as Commercial and Mixed Use. The adjacent property is also designated Commercial and Mixed Use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	[ ]	[ ]	[ ]	[X]
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the water supply policies in the General Plan.

(2) The project was referred to Land Development Engineering Staff who determined the water proposed development will not exceed estimates or water supplies for needed to serve other entitlements and resources.

(3) The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Increased Demand for Sanitary Sewer Services				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project is consistent with the Commercial and Mixed Use designation and will generate sewer flows within what was anticipated for the project site.

(3) The project was referred to Land Development Engineering Staff who determined there is adequate capacity to accommodate the proposed development in addition to existing commitments.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	[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 a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.

(5) There is no conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes the measures listed in MEIR Table V-8-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	[ ]	[ ]	[ ]	[X]
3) The proposed project would modify or demolish a structure more than 50 years in age.	[ ]	[ ]	[ ]	[X]
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	[ ]	[ ]	[ ]	[X]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the archeological and historical resource policies in the General Plan.

(2 & 3) There are no existing structures on the project site.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	[ ]	[ ]	[ ]	[X]
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the storm drain policies in the Urban Area General Plan.

(2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures."

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	[ ]	[ ]	[ ]	[X]
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	[ ]	[ ]	[ ]	[X]
6) The proposed project would violate water quality standards or waste discharge requirements.	[ ]	[ ]	[ ]	[X]
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project is not located within a 100-year flood plain and is limited to commercial uses.

(4) The project is not located within a 100-year flood plain.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(6) The project will not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would eliminate parks or open space.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The project is on a vacant site designated for Commercial/ Mixed Use development. The project would not eliminate an existing park or designated open space.

(3) The project is designated for Commercial/Mixed Use development and would not cause an increase in the use of existing neighborhood and regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	[ ]	[ ]	[ ]	[X]
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) This project was referred to the County and Solid Waste Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	[ ]	[ ]	[ ]	[X]
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	[ ]	[ ]	[ ]	[X]
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(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 would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	[ ]	[ ]	[ ]	[X]
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the I Commercial and Mixed Use land use designation in the General Plan.

(2) The project would not divide an established community. The area to the north, south and west of the site is existing commercial development. The previous use on the site was also a car wash.

(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Commercial and Mixed Use. The proposed development is consistent with these designations in terms of land-use and intensity.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO_2 emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO_2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

None.

Degradation of Air Quality:

AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

AQ-51: Limit traffic speeds on unpaved roads to 15 mph; and

AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

AQ-54: Install wind breaks at windward side(s) of construction areas.

AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

Generation of Noise:

N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

Effects on Agricultural Lands:

None.

Increased Demand for Long-Term Water Supplies:

None.

Increased Demand for Sanitary Sewer Services:

None.

Loss of Sensitive Wildlife and Plant Habitat:

None.

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Increased Demand for Storm Drainage:

None.

Flooding and Water Quality:

None.

Increased Demand for Parks and Open Space:

None.

Increased Demand for Schools:

None.

Increased Demand for Police Services:

None.

Increased Demand for Fire Services:

None.

Generation of Solid Waste:

None.

Generation of Hazardous Materials:

None.

Geology, Soils, and Mineral Resources:

None.

Energy:

None.

Effects on Visual Resources:

None.

Land Use and Planning:

None.

Climate Change:

None.

APPENDIX A

Bob Degrasse, AIA, LEED AP, Letter to David Wage, Associate Planner dated February 18, 2010

L Street Architects

L i m i t e d

1414 L Street • Modesto, California 95354 • (209) 575-1415 • Fax (209) 575-4374
www.lstreetarchitects.com

February 18, 2010

David Wage, Associate Planner
City of Modesto, Community & Economic Development, Planning Division
1010 Tenth Street, Suite 3300
Modesto , CA 95353

Regarding: PrimeShine Carwash

Dear David:

Please find our first response to your e-mails regarding the noise levels at the proposed Morris and McHerny site. I have included excerpts from a 2007 noise study done for a different site. While the noise information gathered for the site is applicable the conclusions are not applicable due to different site configurations and building layout. I hope these will be of interest and help to you as you analyze the noise element of our current proposal.

As you pointed out page 182 lays out the basic limits of noise for different types of land uses. We note two of importance to our project. One; Commercial at a limit of L_{dn} or CNEL (dB) of 70 and; two, for residential at a limit of L_{dn} or CNEL (db) of 65. While a study would need to be preformed for actual field conditions I think we can apply some forward thinking to this current site layout. Our former study has provided many charts and results which you can review. Please note that Figure 3 from J.C. Brennan & Associates shows an L_{dn} of 72 dB with peaks above this which will need to be mitigated. The noise generation items for the project center around two sources; first the vacuums and second the dryers.

First is the location of the vacuums. The report predicts a level of 66 dBA to 70 dBA at 16 feet while we are over 100 feet from the future residential property line. This is also around the existing noise contours shown in Figure V-3-2 on page 174 of the city Master EIR that you have referenced at L_{dn} of 70 dB at 120 feet from center line of McHenry Ave and L_{dn} of 65 dB at 250 feet from center line of McHenry Ave. Conclusion is that the vacuums will not be a noise issue to future development to the East of the project.

Second are the measures designed to mitigate the dryer noise. On page 10 of the report by J.C. Brennan & Associates it predicts 74 dBA at 25 feet from the center of the tunnel @ 90 degrees and 81 dBA at 25 feet from the exit. The current design of the project provides for four strategies to mitigate the noise.

First is a distance of 50 feet to the property line; second is 10 feet concrete block wall; third is a roof structure over the drying area of the tunnel and fourth is using only 8 driers in-lieu of the 9 studied in 2007. It is known that distance alone is a mitigation measure and we are not able to give you the noise level reduction at the additional 25 feet and we do know it will drop. Secondly the concrete block wall will act as a noise reduction element and are used frequently along freeways and arterial roads. Appendix C and Appendix D show dB loss according to height of the wall. At the 10 foot wall a loss of 8.7 – 9.9 dB can be expected with higher reductions at the detail building which is designed for 16 feet high. Thirdly the proposed roof over the tunnel will tend to keep the noise at lower heights and will allow for the CMU wall to block the noise. While the noise reduction of the roof was not addressed by our last report it is mentioned as mitigation for noise reduction. Lastly by use of 8 custom designed driers the noise will be dropped by a ratio of $1/8^{th}$. Conclusion is that the dryers will be able to be mitigated with distance and CMU walls and will not be a noise issue to future development to the East of the project.

I hope this letter, and attachments, will serve as a starting point to help your efforts in writing your report for the upcoming public meeting.

Sincerely

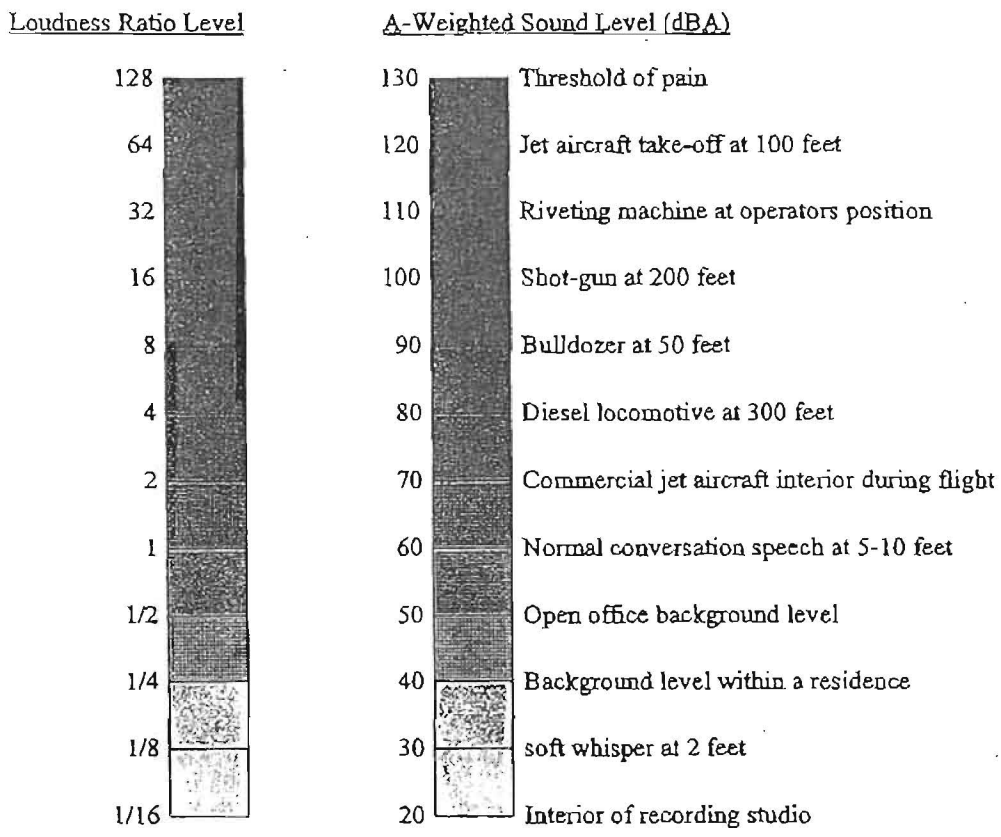
Robert DeGrasse AIA, LEED AP
President

APPENDIX B

J.C. Brennan & Associates, Inc., Prime Shine Express – Ceres, CA
Environmental Noise Analysis

Community noise is commonly described in terms of the "ambient" noise level, which is defined as the all-encompassing noise level associated with a given noise environment. A common statistical tool to measure the ambient noise level is the average, or equivalent, sound level (Leq). The Leq is the foundation of the day/night average noise descriptor, Ldn, and shows very good correlation with community response to noise.

Figure 2
Typical A-Weighted Sound Levels of Common Noise Sources



The Day-night Average Level (Ldn) is based upon the average noise level over a 24-hour day, with a +10 decibel weighing applied to noise occurring during nighttime (10:00 p.m. to 7:00 a.m.) hours. The nighttime penalty is based upon the assumption that people react to nighttime noise exposures as though they were twice as loud as daytime exposures. Because Ldn represents a 24-hour average, it tends to disguise short-term variations in the noise environment.

The noise level criteria which are described in this report include descriptors such as Leq, which is the logarithmic average over a given period of time, and the Ldn, which is the average logarithmic average over a 24-hour period.

Table 1
Existing Continuous 24 hour Ambient Noise Monitoring Results

Site	Location	Average Measured Hourly Noise Levels, dBA						
		Ldn (dBA)	Daytime (7:00 am - 10:00 pm)			Nighttime (10:00 pm - 7 am)		
			Leq	Lmax	L50	Leq	Lmax	L50
A	Southwest of Mitchell Rd and E Service Rd.	72.4	67.1	81.0	65.5	65.8	78.6	64.1

Source – j.c. brennan & associates, Inc. - 2006

The Table 3 data indicates that existing ambient noise levels at the project site are currently elevated, with hourly averages ranging from 62-69 dB Leq and maximum noise levels ranging from 73-87 dB Lmax. The elevated background noise levels are due primarily to roadway traffic on S.R. 99 and Mitchell Road. The reason for quantifying the background noise environment is for comparison of the project-related noise levels. Appendix B shows the complete hourly noise level data.

Evaluation of Car Wash Noise Levels:

To quantify noise levels associated with Prime Shine Express Car Wash operations, j.c. brennan & associates, inc. conducted short term noise level measurements at the Riverbank Prime Shine Express Car Wash facility, on December 20, 2006. According to information provided by the project proponent, the Riverbank facility is similar to the proposed Ceres facility. It is a drive-thru type car wash with a vacuum area along the east and southwest portions of the site, and a car wash tunnel which is oriented in a north/south direction along the western portion of the project site. Figure 1 shows the site plan. During the site visit to the Riverbank Prime Shine facility, noise levels associated with the car wash operations could not be isolated adjacent to the entrance of the car wash tunnel due to elevated traffic noise. As a result, further noise measurements were conducted at the Modesto-Dale Road Prime Shine facility. The noise level survey results are provided in Table 4.

The primary noise sources associated with car wash operations are the drying cycle within the car wash tunnel and operations of the vacuums. The dryers are Hanna Concorde series overhead Co-Polymer/Stainless steel air blowers, which are located at the south end of the car wash tunnel. The vacuum stations consist of two Pro-Vac Model 4374 vacuums. In addition, there is some noise associated with the pre-wash and wash cycles of the car wash.

Noise level measurements were conducted to determine typical noise levels associated with the dryers, and the directionality of the noise as it attenuates from the car wash tunnel. Additionally, the sound level meter was programmed to collect single event noise level data due to car wash

operations. Noise measurements were also conducted to determine typical noise levels associated with the Pro-Vac vacuum systems on the project site.

All noise level measurements were conducted with a Larson Davis Laboratories (LDL) Model 824 precision integrating sound level meter which is equipped with 1/3 and 1-octave band filters.

Table 4
Prime Shine Express Car Wash
Noise Monitoring Survey

				Average Measured Noise Levels (dBA)		
Site #	Site Description[1]	Event	Duration	Leq	Lmax	SEL
Riverbank Prime Shine						
1	50 feet from Entrance	Rinse/Prep	0:33	65.4	69.3	80.6
3	50 feet/90° from Exit	2 Full Events	2:04	74.6	77	95.5
4	50 feet/45° from Exit	Blowers Active	0:45	82	84.5	98.6
5	50 feet from Exit	2 Full Events	3:11	79.6	85.3	102.4
Modesto - Dale Rd. Prime Shine						
1	50 feet from Entrance	2 Full Events	3:01	71.3	77.9	93.9
2	50 feet/90° from Entrance	Blowers Active	0:52	68.4	70.7	85.6
3	50 feet/90° from Exit	Blowers Active	1:00	74.9	78.3	92.7
4	50 feet/45° from Exit	Blowers Active	0:20	82	83.7	95.1
5	50 feet from Exit	1 Full Event	1:41	82.4	86.7	102.5
6	10 feet from Vacuum	Pro-Vac 4373 Front	1:00	75.1	75.6	92.9
7	10 feet from Vacuum	Pro-Vac 4373 Rear	1:00	79.2	80.4	97

1 – All measurement locations at 50 feet, unless otherwise noted.
Source: j.c. brennan & associates, Inc. – 2006

Analysis:

Car Wash Operations

The nearest noise-sensitive use to the proposed car wash is the single family residence adjacent to the western project boundary as identified on Figure 1. The residential property line is located approximately 25 feet from the center of the proposed car wash dryers.

Based on the Table 4 data, the typical average noise level associated with car wash operations is approximately 75 dBA Leq at 50 feet and 90 degrees from the tunnel exit. The single event noise level (SEL) of a full car wash cycle, including rinse, prep, wash and air dry, is conservatively estimated to be 95 dBA, at a distance of 25 feet and 90 degrees from the exit of the car wash tunnel. Typical noise levels at the entrance of the car wash tunnel at 90 degrees are expected to be approximately 62 dBA Leq, based upon the Riverbank noise measurement data.

Information provided by the project proponent and observations made by j.c. brennan & associates, Inc. staff indicate approximately 30 car wash operations will take place during a

typical busy hour of operations. Car wash noise levels were determined using the following formulas:

$$\text{Peak Hour } L_{eq} = \text{SEL} + 10\log(N) - 35.6,$$

Where 95 is the mean Sound Exposure Level (SEL) for single car wash operation, N is the number of car wash operations occurring during a peak hour (N is assumed to be 30), and 35.6 is 10 times the logarithm of the number of seconds in an hour.

Using the equations and operations data described above, the Prime Shine Express Car Wash would result in noise levels of approximately 74 dBA Leq at a distance of 25 feet from the center of car wash tunnel exit @ 90 degrees. Additionally, maximum noise levels are expected to be 81 dB Lmax at 25 feet and 90 degrees from the center of car wash tunnel exit. The measured noise levels at the entrance of the car wash are approximately 7 dBA Leq less than at the exit, and are predicted to be 67 dBA Leq at the property line.

Predicted car wash noise levels at the residence to the west are expected to range between 64 dB Leq and 67 dB Leq. Due to the project design, the car wash noise levels at the residence will be primarily from the car wash entrance.

Predicted noise levels associated with the car wash will exceed the City of Ceres noise level criteria at both the property line and at the residential building to the west. The predicted project noise levels at the property line nearest the exit of the car wash are expected to exceed the background noise levels by 5 to 7 dB Leq, and will be approximately the same as existing background noise levels at the property line nearest the entrance of the car wash. Predicted noise levels associated with the car wash at the adjacent residence are predicted to be approximately the same as the existing background noise levels.

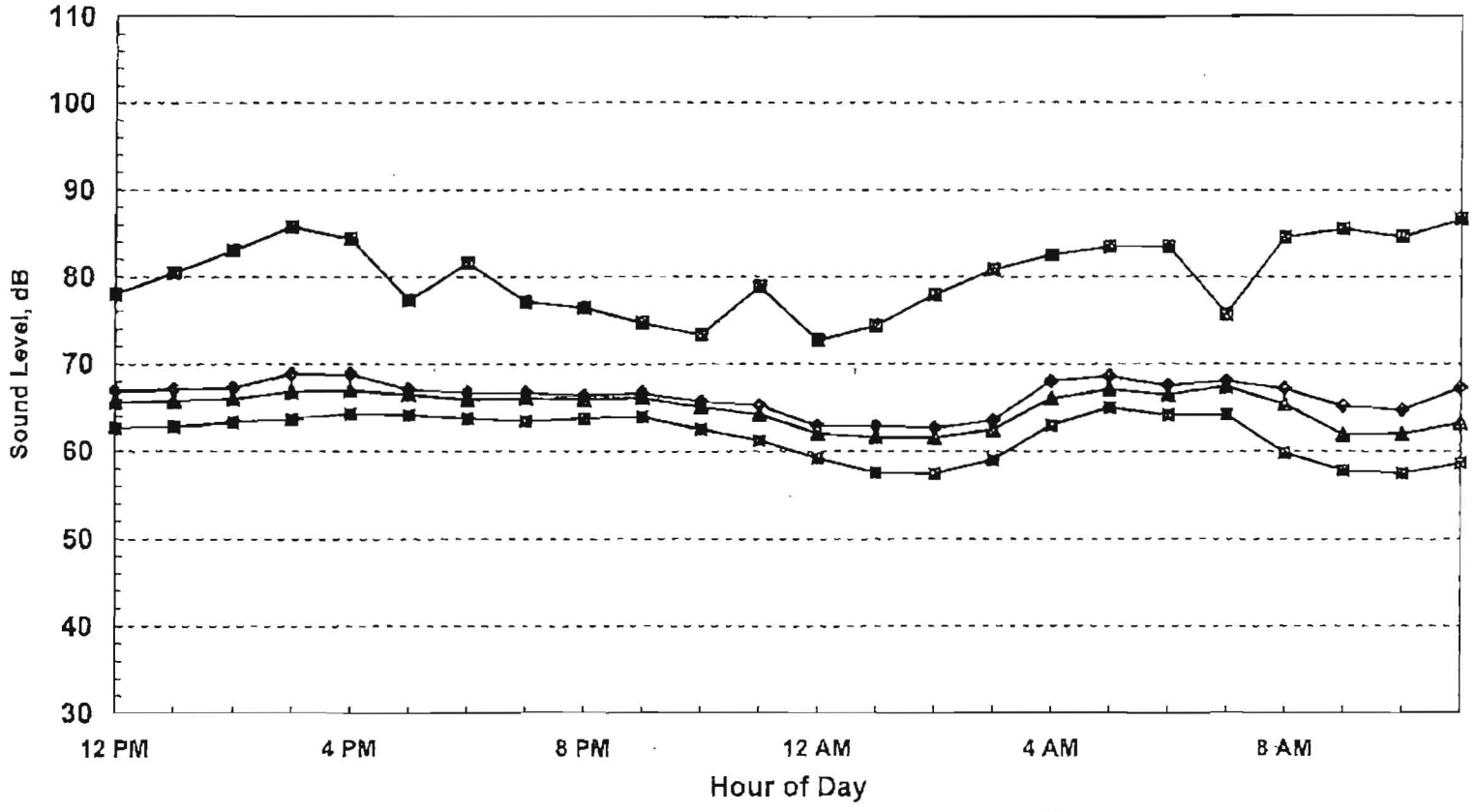
Vacuum System

The Prime Shine Express Car Wash proposes seven vacuum islands containing two each Pro-Vac Model 4374 self-service vacuums. During the December 20, 2006 visit to the Riverbank facility j.c. brennan & associates, inc. staff conducted noise measurements of vacuum operations. Noise levels were measured ten feet from the front and rear of the unit. Noise levels were 75 dB Leq at the front of the unit and 79 dB Leq at the rear of the unit. Elevated noise levels at the rear of the unit appear to from exhaust vents located at the base of the top cap. Based upon a typical operation of 20 minutes per hour for a single vacuum, the Leq at the property line (16 feet) is predicted to range between 66 dBA and 70 dBA Leq. Predicted vacuum noise levels at the residence range between 42 dBA and 46 dBA Leq. Therefore, the overall noise levels due to vacuum system operations will exceed the City of Ceres noise level criteria at the adjacent property line to the west. However, the predicted noise levels will not exceed the standards at the residential building façade to the west.

Appendix A
Acoustical Terminology

Acoustics	The science of sound.
Ambient Noise	The distinctive acoustical characteristics of a given space consisting of all noise sources audible at that location. In many cases, the term ambient is used to describe an existing or pre-project condition such as the setting in an environmental noise study.
Attenuation	The reduction of an acoustic signal.
A-Weighting	A frequency-response adjustment of a sound level meter that conditions the output signal to approximate human response.
Decibel or dB	Fundamental unit of sound, A Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell.
CNEL	Community Noise Equivalent Level. Defined as the 24-hour average noise level with noise occurring during evening hours (7 - 10 p.m.) weighted by a factor of three and nighttime hours weighted by a factor of 10 prior to averaging.
Frequency	The measure of the rapidity of alterations of a periodic signal, expressed in cycles per second or hertz.
Ldn	Day/Night Average Sound Level. Similar to CNEL but with no evening weighting.
Leq	Equivalent or energy-averaged sound level.
Lmax	The highest root-mean-square (RMS) sound level measured over a given period of time.
L(n)	The sound level exceeded a described percentile over a measurement period. For instance, an hourly L50 is the sound level exceeded 50% of the time during the one hour period.
Loudness	A subjective term for the sensation of the magnitude of sound.
Noise	Unwanted sound.
Peak Noise	The level corresponding to the highest (not RMS) sound pressure measured over a given period of time. This term is often confused with the "Maximum" level, which is the highest RMS level.
RT_{60}	The time it takes reverberant sound to decay by 60 dB once the source has been removed.
Sabin	The unit of sound absorption. One square foot of material absorbing 100% of incident sound has an absorption of 1 sabin.
SEL	A rating, in decibels, of a discrete event, such as an aircraft flyover or train passby, that compresses the total sound energy into a one-second event.
Threshold of Hearing	The lowest sound that can be perceived by the human auditory system, generally considered to be 0 dB for persons with perfect hearing.
Threshold of Pain	Approximately 120 dB above the threshold of hearing.
Impulsive	Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.
Simple Tone	Any sound which can be judged as audible as a single pitch or set of single pitches.

Figure 3
Continous Measured Hourly Noise Levels
Prime Shine Express
December 19-20, 2006



Ldn = 72 dB

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Appendix B

Prime Shine Express

24hr Continuous Monitoring

December 19-20, 2006

Hour	Leq	Lmax	L50	L90
12:00	67	78	66	63
13:00	67	80	66	63
14:00	67	83	66	63
15:00	69	86	67	64
16:00	69	84	67	64
17:00	67	77	67	64
18:00	67	82	66	64
19:00	67	77	66	63
20:00	66	76	66	64
21:00	67	75	66	64
22:00	66	73	65	63
23:00	65	79	64	61
0:00	63	73	62	59
1:00	63	74	62	58
2:00	63	78	62	57
3:00	63	81	62	59
4:00	68	82	66	63
5:00	69	83	67	65
6:00	67	83	66	64
7:00	68	76	67	64
8:00	67	85	65	60
9:00	65	86	62	58
10:00	65	85	62	57
11:00	67	87	63	59

	Statistical Summary					
	Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
	High	Low	Average	High	Low	Average
Leq (Average)	68.8	64.7	67.1	68.6	62.6	65.8
Lmax (Maximum)	86.6	74.6	81.0	83.5	72.7	78.6
L50 (Median)	67.5	61.9	65.5	67.1	61.5	64.1
L90 (Background)	64.3	57.5	62.2	65.0	57.4	61.0

Computed Ldn, dB	72.4
% Daytime Energy	69%
% Nighttime Energy	31%

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Appendix C

Barrier Insertion Loss Calculation

Project Information:

Job Number: 2006-170
Project Name: Prime Shine Express Car Wash
Location(s): 1

Noise Level Data:

Source Description: Car Wash Entrance
Source Noise Level, dBA: 63
Source Frequency (Hz): 1000
Source Height (ft): 8

Site Geometry:

Receiver Description: Nearest Residential Property Line
Source to Barrier Distance (C_1): 20
Barrier to Receiver Distance (C_2): 25

Pad/Ground Elevation at Receiver: 0
Receiver Elevation[1]: 5
Base of Barrier Elevation: 0
Starting Barrier Height 6

Barrier Effectiveness:

Top of Barrier Elevation (ft)	Barrier Height (ft)	Insertion Loss, dB	Noise Level, dB	Barrier Breaks Line of Site to Source?
6	6	-4.5	58.5	No
7	7	-5.0	58.0	Yes
8	8	-6.4	56.6	Yes
9	9	-8.1	54.9	Yes
10	10	-9.9	53.1	Yes
11	11	-11.1	51.9	Yes
12	12	-12.6	50.4	Yes
13	13	-13.7	49.3	Yes
14	14	-14.6	48.4	Yes
15	15	-15.3	47.7	Yes
16	16	-15.9	47.1	Yes

Notes: 1.Standard receiver elevation is five feet above grade/pad elevations at the receiver location(s)

Appendix D

Barrier Insertion Loss Calculation

Project Information:

Job Number: 2006-170
Project Name: Barrier Insertion Loss
Location(s): 1

Noise Level Data:

Source Description: Blower Roof
Source Noise Level, dBA: 75
Source Frequency (Hz): 1000
Source Height (ft): 10

Site Geometry:

Receiver Description: Nearest Backyard
Source to Barrier Distance (C_1): 20
Barrier to Receiver Distance (C_2): 50

Pad/Ground Elevation at Receiver: 0
Receiver Elevation[1]: 5
Base of Barrier Elevation: 0
Starting Barrier Height 15

Barrier Effectiveness:

Top of Barrier Elevation (ft)	Barrier Height (ft)	Insertion Loss, dB	Noise Level, dB	Barrier Breaks Line of Site to Source?
15	15	-13.0	62.0	Yes
16	16	-13.9	61.1	Yes
17	17	-14.6	60.4	Yes
18	18	-15.3	59.7	Yes
19	19	-15.9	59.1	Yes
20	20	-16.3	58.7	Yes
21	21	-16.9	58.1	Yes
22	22	-17.1	57.9	Yes
23	23	-17.1	57.9	Yes
24	24	-17.1	57.9	Yes
25	25	-17.1	57.9	Yes

Notes: 1.Standard receiver elevation is five feet above grade/pad elevations at the receiver location(s).

j.c. brennan & associates
consultants in acoustics

Appendix E

Barrier Insertion Loss Calculation

Project Information:

Job Number: 2006-170
Project Name: Barrier Insertion Loss
Location(s): 1

Noise Level Data:

Source Description: HVAC
Source Noise Level, dBA: 63
Source Frequency (Hz): 500
Source Height (ft): 8

Site Geometry:

Receiver Description: Nearest Backyard
Source to Barrier Distance (C_1): 560
Barrier to Receiver Distance (C_2): 20

Pad/Ground Elevation at Receiver: 0
Receiver Elevation[1]: 5
Base of Barrier Elevation: 0
Starting Barrier Height 6

Barrier Effectiveness:

Top of Barrier Elevation (ft)	Barrier Height (ft)	Insertion Loss, dB	Noise Level, dB	Barrier Breaks Line of Site to Source?
6	6	-5.1	57.9	Yes
7	7	-5.8	57.2	Yes
8	8	-6.7	56.3	Yes
9	9	-7.7	55.3	Yes
10	10	-8.7	54.3	Yes
11	11	-9.6	53.4	Yes
12	12	-10.3	52.7	Yes
13	13	-10.9	52.1	Yes
14	14	-11.7	51.3	Yes
15	15	-12.5	50.5	Yes
16	16	-13.0	50.0	Yes

Notes: 1.Standard receiver elevation is five feet above grade/pad elevations at the receiver location(s)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-213

A RESOLUTION VACATING A PORTION OF JEFFERSON STREET SOUTH OF 8TH STREET, A PORTION OF MADISON STREET SOUTH OF MID LATERAL NO. 4, AND AN ALLEY WEST OF JEFFERSON STREET

WHEREAS, the City of Modesto Utility Planning and Projects Department is designing and constructing a new City Fleet and Bus Maintenance Facility, and

WHEREAS, the design of the facility necessitates the vacation of a portion of Jefferson Street, south of 8th Street, a portion of Madison Street South of MID Lateral No. 4 and an alley west of Jefferson Street, and

WHEREAS, the City of Modesto Utility Planning and Projects Department submitted an application to vacate a portion of Jefferson Street, south of 8th Street, a portion of Madison Street South of MID Lateral No. 4 and an alley west of Jefferson Street, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and

WHEREAS, California Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate public right-of-way, and

WHEREAS, a title report was submitted with the vacation request which discloses that fee title of Jefferson Street, Madison Street and the alley right-of-way is vested in the City of Modesto, the proponent of the vacation, and

WHEREAS, the proposed vacation has been referred to affected City departments and local utility companies, and no objection to the proposed vacation has been received, and

WHEREAS, Government Code Section 65402(a) requires that prior to vacating a public right-of-way, the Planning Commission shall make a determination as to whether the vacation is consistent with the General Plan, and

WHEREAS, a hearing was held by the Planning Commission on May 3, 2010, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered regarding whether the proposed vacation conforms to the City's Urban Area General Plan, and

WHEREAS, by Planning Commission Resolution No. 2010-11, the Planning Commission rendered a report finding that the proposed vacation is in conformance with the Modesto Urban Area General Plan, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, May 25, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, notices no more than 300 feet apart were posted along the line of the proposed right-of-way to be vacated 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 California Streets & Highways Code Sections 8323 and 8322, respectively, and,

WHEREAS, all things and acts necessary to be done as required by California Streets and Highways Code Sections 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate the subject right-of-way have been done and accomplished,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto finds and determines as follows:

1. The portions of Jefferson Street, Madison Street and alley to be vacated are not necessary to serve present or future traffic needs in the area.

2. The proposed street and alley vacation to facilitate development of a new fleet and bus maintenance facility are in conformity with the General Plan, which calls for cost-effective methods for providing transit services.

3. That Environmental Assessment No. EA C&ED 2010-11 determined that the potential environmental effects of the vacation are adequately addressed within the context of the previously adopted General Plan Master EIR.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation of a portion of Jefferson Street south of 8th Street, a portion of Madison Street south of MID Lateral No. 4 and an alley west of Jefferson Street, subject to the following conditions:

1. Prior to the issuance of a grading permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

2. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.

3. Prior to issuance of a grading permit, the developer shall reserve public utility easements as required by the utility companies and the City Engineer or designee.

4. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.

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:

5. AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in

accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

6. AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

7. AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

8. AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

9. AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

10. AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

11. AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

12. AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

13. AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

14. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

15. AQ-51: Limit traffic speeds on unpaved roads to 15 mph.

16. AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

17. AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

18. AQ-54: Install wind breaks at windward side(s) of construction areas.

19. AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

20. AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

21. N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

22. 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.

23. MEIR Table V-8-1 (b-f)

a. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

b. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

c. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

d. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

e. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

The following recommended Conditions of Approval are mitigation measures from the NEPA Environmental Assessment that should be applied to the project:

24. Appropriate clean-up equipment (brooms, absorbent materials, storm drain covers, and the like) to respond to a release of bus related contaminants shall be maintained on-site in a locker accessible to all bus drivers. Drivers shall be trained in the proper use of the equipment and procedures to respond quickly to any fuel or other leaks.

25. A spill and pollution prevention plan should be prepared by the contractor prior to the start of earthwork activities and submitted to the City of Modesto for review and approval. The plan should include anticipated equipment needs and maintenance, emergency response procedures for hazardous materials releases, and procedures for contacting designated regulatory agencies in case of a release.

26. Underground Service Alert (USA) should be contacted prior to ground breaking for information on the existing location of underground utilities. Available plans and schematics for the project site should also be consulted for utility locations.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation of a portion of Jefferson Street south of 8th Street, a portion of Madison Street south of MID Lateral No. 4, and an alley west of Jefferson Street..

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

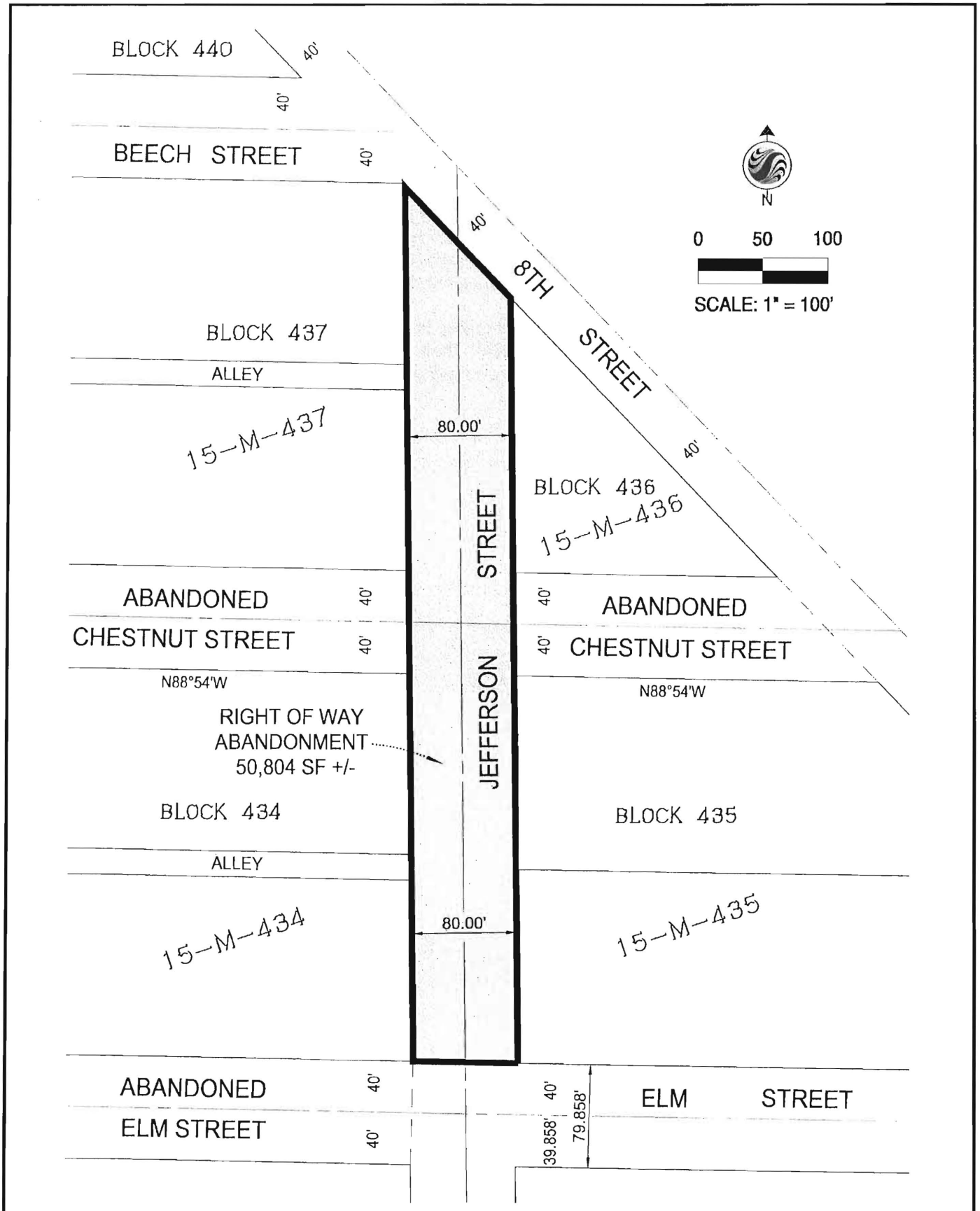
By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Exhibit "A"

Legal Description



Stantec Consulting Services Inc 1016 12th Street Modesto, CA U.S.A. 95354 Tel. 209.521.6966 Fax. 209.521.9045 www.stantec.com Stantec	V:\1843\active\1843268400210\X_CALC.dwg slrish 4/19/10 13:05	NM	MARCH 2010
	RIGHT OF WAY ABANDONMENT CITY OF MODESTO, STANISLAUS COUNTY, STATE OF CALIFORNIA	JEFFERSON STREET	EXHIBIT NO. A

LEGAL DESCRIPTION

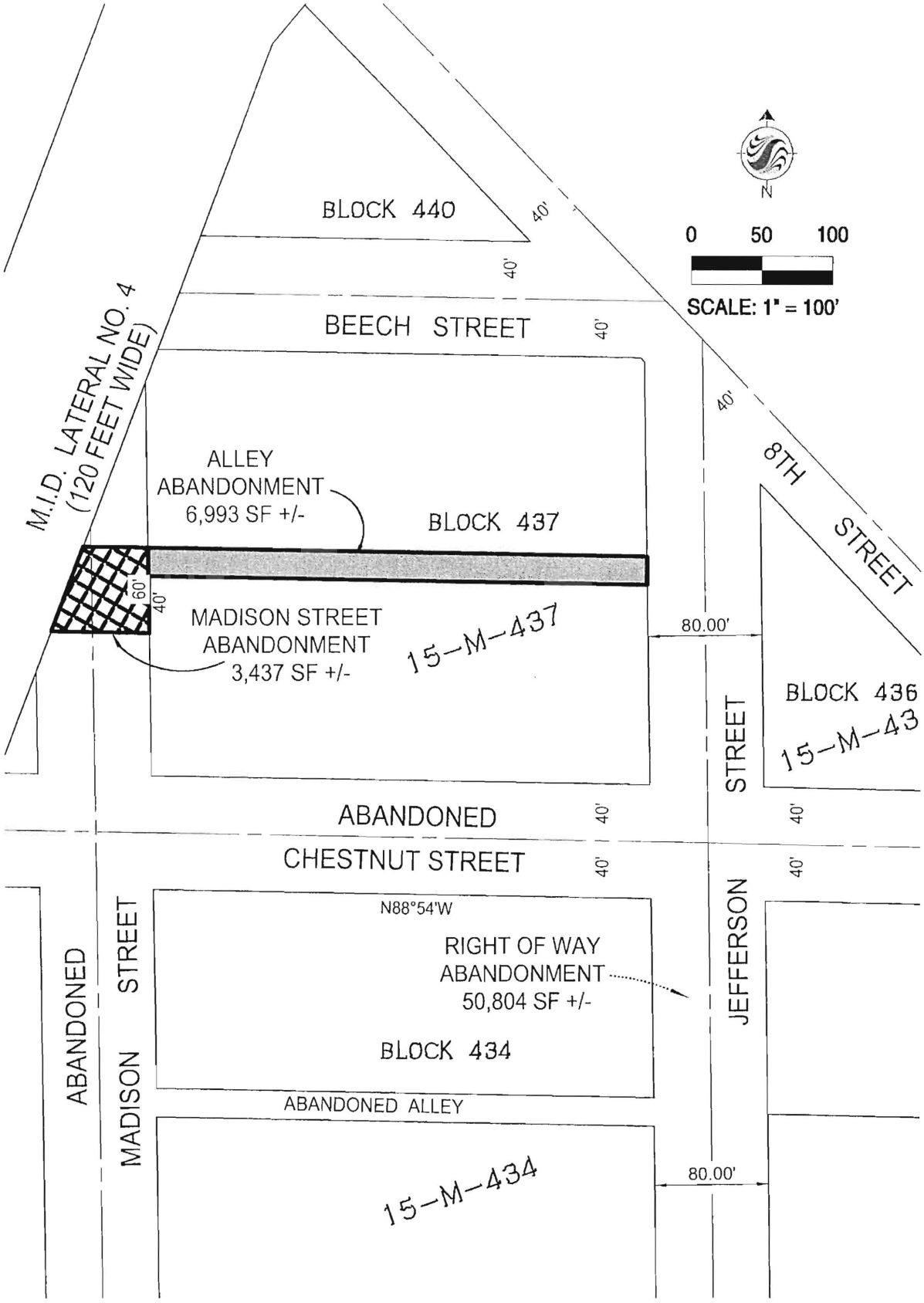
JEFFERSON STREET ABANDONMENT

Relinquishment of a portion of Jefferson Street, as shown on the Map of the City of Modesto – Blocks Map in Volume 15 of Maps at Pages 440, 434, 435, 436 and 437, Stanislaus County Records, lying in the Southwest quarter section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

A strip of land, eighty (80) feet in width, extending from the southeast corner of said Block 434 and southwest corner of Block 435; thence North between Blocks 434, 437 and 440 on the West and Blocks 435, 436 on the East, to the projection of 8th Street between Blocks 436 and 440 of said maps.

Containing approximately 50,804 square feet, more or less.

04/19/2010



Stantec Consulting Services Inc 1016 12th Street Modesto, CA U.S.A. 95354 Tel 209.521.8986 Fax 209.521.9045 www.stantec.com	V:\1843\active\184326840021 0\X_CALC.dwg NManrique 4/20/10 12:29	NM	MARCH 2010
	ALLEY ABANDONMENT / MADISON STREET ABANDONMENT CITY OF MODESTO, STANISLAUS COUNTY, STATE OF CALIFORNIA	BLOCK 437	EXHIBIT NO. A

LEGAL DESCRIPTION

BLOCK 437- ALLEY ABANDONMENT

Relinquishment of a portion of Block 437, as shown on the Map of the City of Modesto – Blocks Map in Volume 15 of Maps at Page 437, Stanislaus County Records, lying in the Southwest quarter section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

A strip of land, twenty (20) feet in width, extending from the west right of way line of Jefferson Street (on the East side of Block 437) to the east right of way of Madison Street (on the West side of Block 437) as shown on said map.

Containing approximately 6,993 square feet, more or less.

04/19/2010

LEGAL DESCRIPTION

MADISON STREET ABANDONMENT

Relinquishment of a portion of Madison Street, as shown on the Map of the City of Modesto -- Blocks Map in Volume 15 of Maps at Page 437, Stanislaus County Records, lying in the Southwest quarter section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

A strip of land, sixty (60) feet in width, beginning at the intersection of east right of way of Madison Street with the north right of way of the Alley through Block 437 of said map. Thence southerly along said east right of way of Madison Street. The North and South sides of the abandonment being parallel with the north right of way of the Alley (60 feet perpendicular to each other) as shown on the map of Block 437 and extending westerly to the M.I.D, Lateral NO. 4, easterly right of way as shown on said map of Block 437.

Containing approximately 3,437 square feet, more or less.

04/19/2010

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-214

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): VACATING A PORTION OF JEFFERSON STREET SOUTH OF 8TH STREET, A PORTION OF MADISON STREET SOUTH OF MID LATERAL NO. 4, AND AN ALLEY WEST OF JEFFERSON STREET.

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the City of Modesto Utility Planning and Projects Department has proposed vacating a portion of Jefferson Street south of 8th Street, a portion of Madison Street south of MID Lateral No. 4, and an alley west of Jefferson Street, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, 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 2010-11 ("Initial Study") reviewed the proposed vacation of a portion of Jefferson Street south of 8th Street, a portion of Madison Street south of MID Lateral No. 4, and an alley west of Jefferson Street to determine whether the project is within the scope of the project covered by the 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 May 11, 2010, the City published a notice per Section 15075, 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 May 25, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed vacation of a portion of Jefferson Street south of 8th Street, a portion of Madison Street south of MID Lateral No. 4, and an alley west of Jefferson Street, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-11

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010-11

For the proposed:

Corporation Yard Expansion – Fleet and Bus Maintenance Facility, Abandonment of Jefferson Street, Madison Street and an Alley

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

3-24-2010

Updated: October 2008

City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Fire Station No. 2 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Corporation Yard Expansion – Fleet and Bus Maintenance Facility

B. Address or Location: North Side of Elm St., West of Jefferson St.

C. Applicant: City of Modesto (Dean Phillips) PO Box 642 Modesto, CA 95353

D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5302
E-mail address: Dwage@modestogov.com

E. Current General Plan Designation(s): Redevelopment Planned District (RPD)

F. Current Zoning Classification(s): Commercial-Industrial (C-M), and Light Industrial (M-1)

G. Surrounding Land Uses:

North: Commercial-Industrial (C-M),
South: Light Industrial (M-1)
East: Light Industrial (M-1)
West: Light Industrial (M-1)

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The Fleet and Bus Maintenance Facility project proposes to relocated and consolidate two existing maintenance facilities onto a single new site within the existing Corporation Yard. The new/relocated Fleet and Bus Maintenance Facility will be located adjacent to 8th Street in an area currently occupied by Jefferson St. With the placement of the consolidated facility in this location, portions of Jefferson Street from Elm Street to 8th Street, a portion of Madison Street south of MID Lateral No. 4, and an alley located west of Jefferson Street will be vacated and abandoned by the City.

While the Fleet and Bus Maintenance facilities will be consolidated into a single structure, each maintenance facility will remain in a separate building sharing common walls. The new Bus Maintenance Facility will accommodate approximately 50 standard buses, featuring a new bus parking area, a new bus maintenance building (23,000 square feet), fuel island, wash house, bus repair staging parking lot and off-street employee and visitor parking (24 spaces). Similarly, the new Fleet Maintenance Facility will serve non-sedan vehicle maintenance requirements in a 17,000 square foot building. City vehicle and equipment parking will be located in two areas- to the south and adjacent to the proposed Fleet Maintenance Facility, and to the west of the proposed bus wash building. Approximately 363 spaces will be provided. 79 new employee parking spaces will also be included for the Corporation Yard, located off of 8th Street, between the proposed fuel building and the existing Modesto Irrigation District Lateral No. 4 Canal. This additional parking will replace slant and parallel parking that currently exists on Jefferson Street.

A new decorative wall or fence with masonry pilasters at 16 feet on center will surround portions of the Corporation Yard. The new wall or fence will be provided around the perimeter of the Corporation Yard along 8th Street, Washington Street and Elm Street.

I. Other Public Agencies Whose Approval is Required:
None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Dan Wegel — Project Manager

Associate Planner — Title

4/21/10 — Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐

(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	[ ]	[ ]	[ ]	[X]
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[ ]	[ ]	[X]
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	[ ]	[ ]	[ ]	[X]
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	[ ]	[ ]	[ ]	[X]
7) The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
excess of that considered in the Urban Area General Plan.				

Discussion:

(1 & 3) The proposed project is consistent with the General Designation and the traffic volumes assumed in the MIER. The project will not result in an increase 100 additional trips than what was assumed in the MIER or degradation below LOS D and therefore no new mitigation measures are necessary. The project includes a new bus maintenance facility, which will allow for the future expansion of transit services. The additional transit services will reduce peak hour trips and vehicle miles traveled city-wide.

(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 approved site plan was designed to accommodate the proposed public facility uses and emergency access.

(4) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(5) City staff has reviewed the project and determined the project has provided sufficient parking for the maintenance facilities.

(6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.

(7) The proposed project is would not result in an increase in energy consumption in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-40 and AQ-42 through AQ-56 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	[ ]	[ ]	[X]	[ ]
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	[ ]	[ ]	[ ]	[X]
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would expose sensitive	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.				
5) The proposed project would create objectionable odors affecting a substantial number of people.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) Short-Term Construction-Generated Emissions

Emissions produced during site preparation and construction is short-term because it occurs only during the construction phase. Dust generation is normally the primary concern during demolition and initial site preparation. Because such emissions are not amenable to collection and discharge through a controlled source, they are called fugitive emissions. Fugitive dust emissions typically include emissions from on-site grading and excavation activities and from off-site truck and passenger car travel on unpaved roadways. Fugitive dust emission rates are affected by a variety of factors, including amount and type of exposed soil, amount of soil moisture, wind speed, number of vehicles and pieces of equipment in operation at one time, depth of disturbance or excavation, and the number of vehicle miles traveled. Fugitive dust emissions are measured as PM10. In addition, emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) are generated primarily by the operation of gasoline- and diesel-powered motor vehicles. Construction-generated emissions vary from day to day, depending on the specific activities being conducted, the type of equipment, duration or equipment use, and the number of transport trips for construction workers and material. Actual pollutant concentrations depend on various factors, including the location and type of activities performed, meteorological conditions, distances to nearby receptors, and the effectiveness of the mitigation measures employed.

As shown in **Table III-1** below, the short-term construction-generated emissions have been modeled based on the construction (demolition, grading, paving, construction, and architectural coatings) of the new business park buildings and associated parking and site improvements for each phase. The model shows that NOx emissions during construction could reach a maximum of 0.9 tons per year, while ROG emission could each a maximum of .19 ton per year. The SJVAPCD thresholds of 10 tons per year of ROG and NOx would not be violated during project construction. PM10 emissions could reach a maximum for 0.06 ton per year for construction. PM10 emissions would be below the District's threshold of 15 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations.

Table III-1.
Summary of Modeled Short-Term Construction-Generated Emissions

Source	Emissions (tons/year)[1]		
	ROG	NOx	PM10
Total Unmitigated	**0.19**	**0.89**	**0.06**
SJVUAPCD Significance Threshold	*10*	*10*	*15*

[1] *Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.2.4 computer model and represent worst-case yearly conditions.*

Long-Term Increases in Emissions

No stationary source emissions are anticipated from operation of the fleet and bus maintenance buildings. Therefore, long-term increases in regional emission of criteria pollutants would be associated primarily with motor vehicle trips following completion of the additional business park buildings. Criteria pollutants are those pollutants, or their precursors, for which the U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards, which are at least as stringent as the National Ambient Air Quality Standards (NAAQS). Although the proposed project includes various elements designed to reduce mobile source emissions (e.g. located proximal to transit routes), implementation of the proposed project would result in the generation of mobile source emissions, including ROG and NOx, which are both precursors to ozone.

The operational emissions of the project were modeled using URBEMIS 2007, version 9.2.4. Regional area and mobile source emissions were based on proposed land use types and sizes. As shown in **Table III-2** below, the long-term operational emissions for ROG, NOx and PM10 would be below the SJVUAPCD's established significance threshold for the development. Therefore the long-term increases in emissions would be considered a less than significant impact.

Table III-2.
Summary of Modeled Net Increase in Long-Term Operational Emissions

Source	Emissions (tons/year)[1]		
	ROG	NOx	PM10
Area Source	0.06	0.15	0.00
Mobile Source	0.49	0.90	0.38
Total Unmitigated	**0.55**	**1.05**	**0.38**
SJVUAPCD Significance Threshold	*10*	*10*	*15*

[1] *Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.4.2 computer model and represent worst-case yearly conditions.*

CO Emissions

Carbon monoxide (CO) concentration is a direct function of vehicle idling times and, thus, traffic flow conditions. Under specific meteorological conditions, CO concentrations near congested roadways and/or intersections may reach unhealthy levels with respect to local sensitive land-uses as residential areas, schools, and hospitals. As a result, the SJVUAPCD recommends analysis of CO emissions at a local rather than regional level.

The Transportation Project-Level Carbon Monoxide Protocol (Garza et al. 1997) states that signalized intersections at level of service (LOS) E or F represent a potential for a CO violation, also known as a hot spot. Thus, modeling of CO concentrations is typically recommended for receptors located near signalized roadway intersections that are projected to operate at LOS E or F. The SJVUAPCD has established preliminary screening criteria to determine with fair certainty that if not violated, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 parts per million (ppm) or the 8-hour standard of 9 ppm, respectively. SJVUAPCD's preliminary screening criteria include the following:

1) A traffic study for the project indicates that the LOS on one or more streets or at one or more intersections in the project vicinity will be reduced to LOS E or F; or
2) A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at one or more intersections in the project vicinity.

The project was reviewed by the City's Traffic Engineering Staff who determined the project would not cause any intersection to deteriorate from acceptable LOS (D or better) to unacceptable LOS (E or F). Nor would the project contribute substantial traffic to intersections that are predicted to operate at LOS E or F without the project. The project would facilitate the expansion of existing transit operations and improve traffic congestion throughout the city. Based on the screening criteria above, project-generated long-term operational local mobile-source emission of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9ppm, respectively. As a result, this impact would be less than significant.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The land uses proposed are not in themselves significant contributors to air pollution levels and therefore the primary source of air pollution associated with the development would be traffic related. The expanded bus routes associated with the proposed bus maintenance facility would

result in a slight increase in air emissions. The operation of approximately 33 daily buses currently (25 of which begin routes in downtown Modesto), would increase to approximately 41 daily buses in the future (30 of which will begin routes in the downtown area). The expanded bus operations would result in an additional fives buses each day traveling south from the Bus Fleet Yard down 7th Street, turning left on K Street to the downtown area. There are no sensitive receptors (day care centers, schools, hospitals) within the immediate vicinity of the project site. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There mitigation to be applied to this project includes N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	[ ]	[ ]	[X]	[ ]
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	[ ]	[ ]	[X]	[ ]
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR.implementation of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project will not exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the previously approved conditions of approval.

(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 measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	[ ]	[ ]	[ ]	[X]
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	[ ]	[ ]	[ ]	[X]
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	[ ]	[ ]	[ ]	[X]
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	[ ]	[ ]	[ ]	[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. No agricultural land will be converted for the development of the proposed projects.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

(3) 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 General Plan designates the property as Commercial and Mixed Use. The adjacent property is also designated Commercial and Mixed Use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the water supply policies in the General Plan.

(2) The project was referred to Land Development Engineering Staff who determined the water proposed development will not exceed estimates or water supplies for needed to serve other entitlements and resources.

(3) The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be

incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Increased Demand for Sanitary Sewer Services				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	[ ]	[ ]	[ ]	[X]
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project is consistent with the Redevelopment Planned District (Industrial-Commercial-Public) designation and will generate sewer flows within what was anticipated for the project site.

(3) The project was referred to Land Development Engineering Staff who determined there is adequate capacity to accommodate the proposed development in addition to existing commitments.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.				
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	[ ]	[ ]	[ ]	[X]
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	[ ]	[ ]	[ ]	[X]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.

(5) There is no conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes the measures listed in MEIR Table V-8-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	[ ]	[ ]	[ ]	[X]
3) The proposed project would modify or demolish a structure more than 50 years in age.	[ ]	[ ]	[ ]	[X]
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	[ ]	[ ]	[ ]	[X]
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the archeological and historical resource policies in the General Plan.

(2 & 3) There are no existing structures on the project site.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	[ ]	[ ]	[ ]	[X]
3) The proposed project does not utilize Low Impact	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.				

Discussion:

(1) The project is consistent with the storm drain policies in the Urban Area General Plan.

(2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures."

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	[ ]	[ ]	[ ]	[X]
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	[ ]	[ ]	[ ]	[X]
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	[ ]	[ ]	[ ]	[X]
6) The proposed project would violate water quality standards or waste discharge requirements.	[ ]	[ ]	[ ]	[X]
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project is not located within a 100-year flood plain and is limited to commercial uses.

(4) The project is not located within a 100-year flood plain.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(6) The project will not violate water quality standards or waste discharge requirements.

(7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

(8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would eliminate parks or open space.	[ ]	[ ]	[ ]	[X]
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The project is on a vacant site designated as Redevelopment Planned District in the General Plan. The site is further designated Industrial-Commercial-Public (ICP). The proposed development is consistent with this designation. The project would not eliminate an existing park or designated open space.

(3) The project is bus and fleet maintenance facility would not cause an increase in the use of existing neighborhood and regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school

impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project will not generate school age children. Therefore, the proposed project will not impact the school system, as this facility will not impact enrollment in public schools.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in the need for new or significantly altered facilities not	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.				

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	[ ]	[ ]	[ ]	[X]
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) Construction would require the removal of existing asphalt pavement and some excavated soil. The area of the debris removal is sufficiently small that disposal of these materials would not be significant. The proposed project will not cause the generation of solid waste beyond that which is identified in the MEIR.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	[ ]	[ ]	[ ]	[X]
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	[ ]	[ ]	[ ]	[X]
4) The proposed project would be constructed on a	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
contaminated site not known to the State of California as of March 2008.				

Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(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 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.

To determine the potential presence of reported hazardous materials on the project site from current or historic land uses, a search of Federal, State, and local agency databases was performed (ERIIS, 1996). In addition, local regulatory agency files were reviewed to determine the status and other available information on the use and storage of hazardous materials at the project site.

The Bus Maintenance Facility portion of the project site (110 Elm Street) stores motor oil, transmission fuild, antifreeze, grease, oxygen and acetylene for use in servicing vehicles. In 1987, a hydraulic fuel leak was discovered in the service shop. As a result about two cubic yards of soil were removed and the area was backfilled.

The Bus Maintenance Facility formerly contained three underground petroleum storage tank (USTs). A 5,000 gallon diesel UST in the southwest corner of the site was closed in place in 1987; no releases are known to have occurred from that tank. Two 12,000 gallon diesel USTs were removed in December 1998. Soil borings in the vicinity of one of the USTs and fuel island in 1993 had previously indicated that up to 2,000 mg/kg of total petroleum hydrocarbons were present in shallow soils by the fuel island, and up to 100 mg/kg to depths of between 20 to 50 feet below the ground surface near the tank. When the tanks were removed, soil samples from the base of the excavation indicated that releases of petroleum hydrocarbons and volatile organic compounds had occurred.

In, June 1999, four soil borings were completed and three groundwater monitoring wells were installed at the Bus Maintenance Facility to determine the extent of the releases. None of the soil samples collected from the borings contained petroleum hydrocarbons or organic compounds above laboratory reporting limits; groundwater from the monitoring wells contained up to 133 µg/L of total petroleum hydrocarbons as gasoline and up to 2 µg/L of volatile organic compounds (SCDER, 1999). Stanislaus County Department of Environmental Resources (SCDER) requested that an additional groundwater monitoring event be conducted at the site to demonstrate that contaminants in groundwater are naturally attenuating.

The Corporation Yard portion of the project site (501 Jefferson St) formerly contained five diesel, waste oil, hydraulic fluid, and gasoline USTs used to fuel and service vehicles. Other hazardous materials stored onsite include waste and new motor oil, antifreeze, and solvents, paints, oxygen, acetylene, lacquer, thinner, propane, and Roundup.

Two 1,200 gallon USTs were removed in 1989; soil samples from the excavation did not contain any contaminants above laboratory reporting limits (Country records, 1996). In August 1998, the remaining three 12,000-gallon USTs were removed from the Corporation Yard. Soil samples indicated that releases has occurred from these tanks during their operation; SCDER has requested that a site assessment be performed to determine the extent of the releases.

A Phase II investigation was conducted at this parcel in March 1999. The Phase II consisted of completing four borings near suspected hazardous material sources at the project site and collecting soil samples from each boring at approximately 15 and 30 bgs. Borings were located near the former gasoline and waste oil USTs, adjacent to an oil/water separator, and in an area previously used as a car wash. The soil samples were analyzed for total petroleum hydrocarbons and volatile organic compounds; no compounds were identified above laboratory reporting limits.

Based on the age of the buildings at the project site, asbestos-containing building materials and lead-based paint may potentially be present. Prior to demolition of structures on the project site, an asbestos-containing material (ACM) survey will be conducted by a certified asbestos consultant. If ACMs are found, they will be removed by a licensed removal contractor in accordance with State and local guidelines (including applicable air permits from the SJVUAPCD) prior to demolition of any on-site structures. Demolition of structures with lead-based paint will be carried out in accordance with State and Federal guidelines trained workers.

The proposed project will not result in additional hazardous materials generated beyond those identified in the MIER. The project would not be constructed on a contaminated site.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
GENERATION OF HAZARDOUS MATERIALS				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	[ ]	[ ]	[ ]	[X]
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	[ ]	[ ]	[ ]	[X]
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	[ ]	[ ]	[ ]	[X]

Discussion:

(1) The project is consistent with the Redevelopment Planned District (RPD) in the General Plan. The portion of the RPD designation that includes the project site is further defined in the General Plan as "Industrial-Commercial-Public" (ICP). The site is zoned Commercial-Industrial (C-M), which allows automobile related uses and equipment and materials yards. The proposed bus and fleet maintenance facility is consistent with the General Plan and Zoning designation for the site.

(2) The project would not divide an established community. The proposed project would be expanding the existing maintenance facilities to the northwest, displacing former service and industrial uses and moving further away from a small neighborhood to the south.

(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[X]	[ ]
3) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[X]	[ ]

Discussion:

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Commercial and Mixed Use. The proposed development is consistent with these designations in terms of land-use and intensity.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO_2 emissions generated from the project would be related to automobile trips. As identified under the

traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO_2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

None.

Degradation of Air Quality:

AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

AQ-51: Limit traffic speeds on unpaved roads to 15 mph; and

AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

AQ-54: Install wind breaks at windward side(s) of construction areas.

AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

Generation of Noise:

N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

Effects on Agricultural Lands:

None.

Increased Demand for Long-Term Water Supplies:

None.

Increased Demand for Sanitary Sewer Services:

None.

Loss of Sensitive Wildlife and Plant Habitat:

None.

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Increased Demand for Storm Drainage:

None.

Flooding and Water Quality:

None.

Increased Demand for Parks and Open Space:

None.

Increased Demand for Schools:

None.

Increased Demand for Police Services:

None.

Increased Demand for Fire Services:

None.

Generation of Solid Waste:

None.

Generation of Hazardous Materials:

None.

Geology, Soils, and Mineral Resources:

None.

Energy:

None.

Effects on Visual Resources:

None.

Land Use and Planning:

None.

Climate Change:

None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-215

A RESOLUTION APPROVING AN ADMINISTRATIVE RECORDING FEE AS A METHOD OF COST RECOVERY OF THE FEE CHARGED BY THE DEPARTMENT OF MOTOR VEHICLES TO PLACE A LIEN ON THE REGISTRATION OF A VEHICLE WITH DELINQUENT PARKING VIOLATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ADJUST THE ADMINISTRATIVE RECORDING FEE, WHEN NECESSARY, TO INCORPORATE ANY CHANGES IN FEES MANDATED BY THE STATE

WHEREAS, on July 1, 1993, Assembly Bill 408 became State Law. In effect, this Bill decriminalized parking citations and placed the responsibility of setting fines, processing, collection and the adjudication of parking violations on the issuing agency, and

WHEREAS, Section 40211 of the California Vehicle Code established procedures to collect delinquent parking violations and also established a process which allows agencies to submit delinquent parking citations to the Department of Motor Vehicles (DMV) for a $3.00 Administrative Recording Fee per record submitted, and

WHEREAS, the General Fund has absorbed the cost at an expense of approximately $19,000 annually, and the City desires to establish an Administrative Recording Fee to recover the actual fee charged by the DMV, per Section 4763 of the California Vehicle Code, and

WHEREAS, adopting an Administrative Recording Fee would prevent any further expense to the General Fund as the fee will be passed through to the registered owner of the vehicle with a delinquent parking violation, and

WHEREAS, the Vehicle Code sections that pertain to the processing of delinquent parking violations are **attached**, and

WHEREAS, the Finance Committee reviewed this item on April 26, 2010, and recommended forwarding to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Administrative Recording Fee for each delinquent parking citation submitted to the Department of Motor Vehicles to cover the actual cost charged by the Department of Motor Vehicles, and shall become effective upon approval by the Council.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to adjust the Administrative Recording Fee, when necessary, to incorporate any changes in fees mandated by the State.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Fee For Recording Parking Penalties

4763. The department shall assess a fee for the recording of the notice of delinquent parking violation, which is given to the department pursuant to Section 40220, in an amount, as determined by the department, that is sufficient to provide a total amount equal to its actual costs of administering Sections 4760, 4761, 4762, 4764, and 4765.

Amended Ch. 939, Stats. 1986. Effective January 1, 1987.

Processing of Delinquent Parking Violations

40211. (a) If the registered owner, or an agent of the registered owner, or a rentee or lessee who was served with the notice of delinquent parking violation pursuant to Section 40206 or Section 40209, or any other person who presents the notice of parking violation or notice of delinquent parking violation after the notice of delinquent parking violation has been issued for delivery under Section 40206, deposits the parking penalty with a person authorized to receive it, the processing agency shall do both of the following:

1) Deliver a copy of one of the following: the notice of delinquent parking violation issued under Section 40206; a true and correct abstract containing the information set forth in the notice of parking violation if the citation was issued electronically; or an electronically reproduced listing of the citation information presented in a notice of delinquent parking violation to the person and record the name, address, and driver's license number of the person actually given the copy in the records of the issuing agency.

For the purposes of this paragraph, a copy of the notice of delinquent parking violation may be a photostatic copy.

(2) Determine whether the notice of delinquent parking violation has been filed with the department pursuant to subdivision (b) of Section 40220 or a civil judgment has been entered pursuant to Section 40220.

(b) If the notice of delinquent parking violation has not been filed with the department or judgment entered and payment of the parking penalty, including any applicable assessments, is received, the proceedings under this article shall terminate.

(c) If the notice of delinquent parking violation has been filed with the department, has been returned under subdivision (b) or (c) of Section 4760 or Section 4764, and payment of the parking penalty together with the administrative service fee of the processing agency for costs of service and any applicable assessments is received, the proceedings under this article shall terminate.

(d) If the notice of delinquent parking violation has been filed with the department and has not been returned under Section 4760, 4762, and 4764, and payment of the parking penalty for, and any applicable costs of, service in connection with civil debt collection, is received by the processing agency, the processing agency shall do all of the following:

(1) Deliver a certificate of payment to the registered owner, the agent, the lessee, or the rentee or other person making the payment.

(2) Immediately transmit the payment information to the department in the manner prescribed by the department.

(3) Terminate proceedings on the notice of delinquent parking violation.

(4) Transmit for deposit all parking penalties and assessments in accordance with law.

Amended Ch. 1244, Stats. 1992. Effective January 1, 1993.
Amended Sec. 13, Ch. 734, Stats. 1995. Effective January 1, 1996.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-216

RESOLUTION APPROVING THE ISSUANCE OF REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $5,200,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION OF CERTAIN RECOVERY ZONE FACILITIES FOR THE BENEFIT OF FOSTER FARMS DAIRY

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness, and

WHEREAS, the Authority is authorized to issue and sell revenue bonds, including recovery zone facility bonds, for the purpose, among others, of financing or refinancing the acquisition and/or construction of capital projects such as the Project (defined below) within the jurisdiction of its Members, and

WHEREAS, the City of Modesto (the "City") is a Member of the Authority, and

WHEREAS, Foster Farms Dairy, a California corporation (the "Borrower"), has requested that the Authority issue and sell recovery zone facility bonds in the maximum principal amount of $5,200,000 (the "Bonds") for the purpose of making a loan to the Borrower, to enable the Borrower to finance the cost of acquiring a new 270 watt photovoltaic solar system located at 529 Kansas Avenue in the City (the "Project"), and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section

147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that an "applicable elected representative" of the governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, hold a public hearing on the issuance of the Bonds and approve the issuance of the Bonds following such hearing, and

WHEREAS, the Authority has determined that the City Council is an "applicable elected representative" for purposes of holding such hearing and approving such issuance, and

WHEREAS, as a condition to issuing bonds to assist in the financing of capital projects, Section 4 of the Agreement requires the approval of the Member within the jurisdiction of which the Project is situated, and

WHEREAS, the Authority has requested that the City 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 4 of the Agreement, and

WHEREAS, notice of such public hearing has been duly given as required by the Code, and the City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing of the Project and the Authority's issuance of the Bonds therefore, and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the issuance of the Bonds by the Authority for the aforesaid purposes,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS;

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds (a) by the "applicable elected representative" of the governmental unit having jurisdiction over the area in which the Project is or is to be located in accordance with Section 147(f) of the Code and (b) by the City Council in accordance with Section 4 of the Agreement.

Section 3. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 4. The adoption of this resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 5. The executing officers, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this resolution and the transactions herein authorized.

Section 6. This resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-217

RESOLUTION APPROVING THE DESIGNATION OF THE CITY OF MODESTO AS A RECOVERY ZONE FOR PURPOSE OF THE AMERICAN RECOVERY AND REINVESTMENT ACT

WHEREAS, Section 1400U-1 of the Internal Revenue Code of 1986, as amended, (the "Code") authorizes the City of Modesto (the "City") to designate a "recovery zone" for the purpose of issuing Recovery Zone Economic Development Bonds under Section 1400U-2 of the Code, and for the purpose of issuing Recovery Zone Facility Bonds under Section 1400U-3 of the Code, and

WHEREAS, pursuant to Section 1400U-1(b) of the Code, the term "recovery zone" means (i) any area designated by the City as having significant poverty, unemployment, rate of home foreclosures, or general distress, (ii) any area designated by the City as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and (iii) any area for which a designation as an empowerment zone or a renewal community is in effect, and

WHEREAS, the U.S. Census has estimated that the City's poverty rate as of calendar year 2008 was 14.4%, compared to a statewide rate of 13.3% and a national rate of 13.2% for the same year (the latest year for which such data is available), and

WHEREAS, the U.S. Department of Labor, Bureau of Labor Statistics, has reported that the City's unemployment rate as of February 2010 was 19.1%, compared to a statewide rate of 12.5% and a national rate of 9.7% for the same month, and

WHEREAS, the City has one of the highest foreclosure rates in the nation and suffers from general economic distress throughout the City,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto as follows:

Section 1. The City Council hereby finds and determines that significant unemployment, poverty, rate of home foreclosures and general distress exist throughout the City as a consequence of the recent housing market collapse, the impact of the national and regional recession, the fiscal crisis experienced by the State of California and local communities, and other factors.

Section 2. For purposes of Sections 1400U-1, 1400U-2 and 1400U3 of the Code, the City Council hereby designates the entire geographic territory of the City as a recovery zone. The recovery zone shall be identified as the "City of Modesto Recovery Zone."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-218

A RESOLUTION APPROVING THE AWARD OF PROPOSAL AND SOFTWARD CONTRACT FOR AN ORACLE ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM SOLUTION AND ORACLE FINANCING TO ORACLE AMERICA, INC., IN THE APPROXIMATE AMOUNT OF $893,110; AUTHORIZING THE AMENDMENT OF THE EXISTING ORACLE LICENSING AGREEMENT IN THE ADDITIONAL APPROXIMATE AMOUNT OF $196,485 PER YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, in 2003, the City of Modesto began a business analysis and subsequently contracted with Gartner Consulting to review and assess the City's key business processes and automated systems, and

WHEREAS, this review resulted in the City Council adopting a Business Process Analysis and System Requirements Development "blueprint" plan in 2004, and

WHEREAS, the "blueprint" included a multi-year business transformation initiative and recommended replacement of existing financial and human resource systems with an ERP system, which has the ability to plan, control and account for the City of Modesto's financial activities and resources with a comprehensive, integrated system, and

WHEREAS, on December 9, 2008, the City Council, by Resolution No. 2008-676, authorized the Purchasing Manger to issue a Request for Proposal (RFP) for an Enterprise Resource Planning (ERP) Solution and implementation services, and

WHEREAS, RFP No. 0809-13 for an ERP System Solution and Implementation Services was issued on December 9, 2008, and proposals were received on February 17, 2009, and

WHEREAS, based on being ranked highest in the overall evaluation criteria and Best and Final Offers (BAFO), the evaluation committee recommended award of

proposal and contract to AST Corporation, Naperville, IL for an Oracle ERP System Solution and System Implementation, and

WHEREAS, this system will be critical to the City operating in an efficient, responsive, and productive manner with significantly improved data entry, retrieval and reporting, and

WHEREAS, Oracle has offered the City lucrative discounts at a historically low rate of 75% off its software costs and 60% off of database licensing fees, and

WHEREAS, these discounts are being offered on a one-time basis due to the unprecedented economic downturn and will expire on May 31, 2010, and

WHEREAS, staff recommends that the City take advantage of a low interest rate financing plan offered by Oracle, and

WHEREAS, this plan will finance the $893,110 of software costs over 5 years at an interest rate of 2.5% in years 1 through 3, and 3.9% in years 4 and 5, with no prepayment penalty for earlier payoff, and

WHEREAS, this item was presented to the Finance Committee meeting on April 26, 2010, and

WHEREAS the Finance Committee recommended this item be forwarded to Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of proposal and software contract for an Oracle Enterprise Resource Planning (ERP) System Solution software and Oracle financing in the approximate amount of $893,110.

BE IT FURTHER RESOLVED that the existing Oracle Licensing Agreement is hereby amended in the additional approximate amount of $196,485 per year,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-219

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR ERP SYSTEM IMPLEMENTATION SERVICES TO APPLICATIONS SOFTWARE TECHNOLOGY (AST) CORPORATION, NAPERVILLE, IL, IN THE APPROXIMATE AMOUNT OF $4,646,040; AUTHORIZING AN INTERFUND LOAN; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, in 2003, the City of Modesto began a business analysis and subsequently contracted with Gartner Consulting to review and assess the City's key business processes and automated systems, and

WHEREAS, this review resulted in the City Council adopting a Business Process Analysis and System Requirements Development "blueprint" plan in 2004, and

WHEREAS, the "blueprint" included a multi-year business transformation initiative and recommended replacement of existing financial and human resource systems with an ERP system, which has the ability to plan, control and account for the City of Modesto's financial activities and resources with a comprehensive, integrated system, and

WHEREAS, on December 9, 2008, the City Council, by Resolution No. 2008-676, authorized the Purchasing Manger to issue a Request for Proposal (RFP) for Enterprise Resource Planning (ERP) Solution and implementation services, and

WHEREAS, RFP No. 0809-13 was issued on December 9, 2008, and proposals were received on February 17, 2009, and

WHEREAS, based on being ranked highest in the overall evaluation criteria and Best and Final Offers (BAFO), the evaluation committee recommended award of

proposal and contract to AST Corporation, Naperville, IL for an Oracle ERP System Solution and System Implementation, and

WHEREAS, this system will be critical to the City operating in an efficient, responsive, and productive manner with significantly improved data entry, retrieval and reporting, and

WHEREAS, the total cost of this contract is $4,646.040, and

WHEREAS, partial funding for this contract has been identified through an interdepartmental loan from the Employee Benefits Fund to the Information Technology Fund, and

WHEREAS, the Employee Benefits Fund currently earns approximately 1.03% combined yield on a weighted average basis on its investments, and

WHEREAS, the terms of this interdepartmental loan call for a 2.5% interest rate, doubling the Fund's current return on investment, and

WHEREAS, staff consulted with the City Attorney's Office, the City's outside financial advisors and its external auditors and ascertained that this internal financing option is legal and appropriate under generally accepted accounting principles, and

WHEREAS, this item was presented to the Finance Committee meeting on April 26, 2010, and the Finance Committee recommended this item be forwarded to Council for consideration, and

WHEREAS, external borrowing would incur additional issuance costs and would result in interest rates of approximately 5%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of proposal and contract for ERP System

Implementation Services to Applications Software Technology (AST) Corporation, Naperville, IL, in the approximate amount of $4,646,040.

BE IT FURTHER RESOLVED that an interdepartmental loan from the Employee Benefits Fund to the Information Technology Fund is hereby approved. Such loan shall be in strict accordance with the Memorandum of Understanding **attached** hereto as **Exhibit A**.

BE IT FURTHER RESOLVED 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 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MEMORANDUM OF UNDERSTANDING
REGARDING LOAN FROM EMPLOYEE BENEFIT FUND ("EBF")
TO CITY'S INFORMATION TECHNOLOGY FUND FOR THE PURPOSE
OF ACQUIRING INFORMATION TECHNOLOGY

The parties to this Memorandum are the City officials charged on the one hand with the proper accounting and maintenance of the City's Information Technology Fund and on the other hand, those City officials charged with the proper accounting and maintenance of the City's Employee Benefit Fund ("EBF"). This Memorandum is entered into and agreed upon this _____ day of May, 2010, with respect to the following recitals which are factually true and correct.

1. WHEREAS, the City's Chief Information Officer has recommended to the City Council that it award a software contract for Oracle enterprise resource planning system solution software at a cost of $893,110 plus financing cost, and the amendment of an existing Oracle licensing agreement in the additional amount of $196,485 per year, and

2. WHEREAS, the City's Chief Information Officer has recommended to the City Council that it award a contract to implement the information software to Applications Software Technology, at a cost of $4,646,040, and

3. WHEREAS, the City has great need of improved software of the type to be replaced by the above referenced software, and

4. WHEREAS, the City's Information Technology Department has negotiated favorable discounts both on the subject software and on its installation, and

5. WHEREAS, the City's Information Technology Fund will allocate the software and implementation cost to other City funds in proportion to their use of the new system, and

6. WHEREAS, some City funds have sufficient liquidity to provide for one payment to the Information Technology Fund for the allocation of implementation costs, and

7. WHEREAS, the City lacks sufficient liquidity in its General Fund and possibly other funds to provide for one payment of the implementation cost, and

8. WHEREAS, the City believes the EBF fund balance is more than adequate to allow a loan in a not to exceed sum of $3,000,000 to the Information Technology Fund with re-payment terms as set forth below in order to provide for the allocated implementation costs due from the General Fund and those other funds lacking liquidity to reimburse the Information Technology Fund, and

9. WHEREAS, the City desires to hold its EBF harmless from the affects of a loan provided by it to the City's Information Technology Fund.

NOW, THEREFORE, the City officials signatory to this Memorandum do affirm and agree as follows:

1. That a portion of the above-described information technology implementation cost be financed in a maximum sum not to exceed $3,000,000 by a one-time loan to the Information Technology Fund from the EBF.

2. It is the intention of the City officials signatory to this Memorandum that the EBF benefit from the loan described in the next preceding paragraph. Accordingly, although the EBF currently earns approximately 1.03% combined yield on a weighted average on its investments, the interest term of this inter-fund loan shall require 2.5% interest on the outstanding balance of the loan during the period that any or all of the money loaned is outstanding.

3. There shall be no prepayment penalty for full payment of the loan in part or in full prior to the currently planned final payment in City Fiscal Year 2017/18. In no event shall any amount loaned pursuant to this Memorandum remain unpaid after the last day of the 2017/18 Fiscal Year.

4. The term of the loan and loan repayments shall be as follows: In Fiscal Years 2011/12 and 2012/13, the Information Technology Fund shall pay simple interest only on the loaned amount. In Fiscal Years 2013/14 through 2017/18 the principal amount of the loan shall be paid from the City's Information Technology Fund to the EBF in five equal installments at the beginning of the fiscal year commencing in Fiscal Year 2013/14. Each such payment shall be increased by a simple interest payment in the amount of 2.5% on the loan balance outstanding immediately prior to the installment payment.

5. The annual allocation of the principal and/or interest on this loan by the Information Technology Fund shall only be made to the General Fund and those other funds that lacked liquidity to pay for the implementation costs when those costs were incurred.

6. In the event that any unforeseen costs, charges or other losses whatsoever are incurred by the EBF as a result of the actions authorized in this Memorandum, all such costs, charges or other losses shall be reimbursed by the City's Information Technology Fund in full with interest as set forth above in this Memorandum.

7. The City Council or the City Manager may, at any time, choose to make the outstanding balance of the subject loan immediately due and payable in full from the Information Technology Fund to the EBF.

8. In the event the combined average annual yield on the weighted average of the City's investments should increase above 2% while any of the loan balances is outstanding, the interest paid on the loan that year shall be at the average annual yield plus 1%.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Memorandum of Understanding by the below signatory City officials and attestation by its City Clerk under authority of Resolution No. _____, adopted by the Council of the City of Modesto on _____ day of May, 2010.

CITY OF MODESTO

By: _____
JIM RIDENOUR, Mayor

By: _____
GREG NYHOFF, City Manager

By: _____
GARY COOK
Chief Information Officer

By: _____
GLORIETTE BECK, CPA
Director of Finance

By: _____
DEE WILLIAMS-RIDLEY
Director of Human Resources

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By: _____
ROLAND STEVENS
Assistant City Attorney

ATTEST:

By: _____
STEPANIE LOPEZ, City Clerk

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-220

A RESOLUTION AUTHORIZING USE OF APPROXIMATELY $1,650,000 FROM THE INFORMATION TECHNOLOGY FUND FOR ADDITIONAL ERP PROJECT EXPENSES

WHEREAS, in 2003, the City of Modesto began a business analysis and subsequently contracted with Gartner Consulting to review and assess the City's key business processes and automated systems, and

WHEREAS, this review resulted in the City Council adopting a Business Process Analysis and System Requirements Development "blueprint" plan in 2004, and

WHEREAS, the "blueprint" included a multi-year business transformation initiative and recommended replacement of existing financial and human resource systems with an ERP system, which has the ability to plan, control and account for the City of Modesto's financial activities and resources with a comprehensive, integrated system, and

WHEREAS, on December 9, 2008, the City Council, by Resolution No. 2008-676, authorizing the Purchasing Manager to issue a Request for Proposal (RFP) for and Enterprise Resource Planning (ERP) Solution and implementation services, and

WHEREAS, RFP No. 0809-13 for an ERP System Solution and Implementation Services was issued on December 9, 2008, and proposals were received on February 17, 2009, and

WHEREAS, based on being ranked highest in the overall evaluation criteria and Best and Final Offers (BAFO), the evaluation committee recommended award of proposal and contract to AST Corporation, Naperville, IL for an Oracle ERP System Solution and System Implementation, and

WHEREAS, this system will be critical to the City operating in an efficient, responsive, and productive manner with significantly improved data entry, retrieval and reporting, and

WHEREAS, additional project costs such as server equipment, data storage requirements, server air conditioning improvements, staff backfill labor, training and training equipment, project space, and third party consultants will cost approximately $1,650,000, and

WHEREAS, these additional costs are necessary in the implementation of the ERP solution, and

WHEREAS, funding for these additional project costs have been identified in the Information Technology Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the use of approximately $1,650,000 from the Information Technology Fund for these additional ERP project expenses.

The foregoing resolution was introduced at meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-221

A RESOLUTION AMENDING THE FISCAL YEARS 2009-2010 AND 2010-2011 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS IN ORDER TO APPROVE THE INTERFUND LOAN FROM THE EMPLOYEE BENEFITS FUND TO THE INFORMATION TECHNOLOGY FUND, APPROVE THE INTERFUND TRANSFER FROM VARIOUS FUNDS TO THE INFORMATION TECHNOLOGY FUND IN ORDER TO PAY FOR THE ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM IMPLEMENTATION SERVICES, ORACLE SOFTWARE FINANCING AND FIRST YEAR ORACLE MAINTENANCE COST, AND ADDITIONAL ERP PROJECT EXPENSES

WHEREAS, the total cost of this implementation services contract is $4,646,040, Oracle software financing is $893,110 plus year one interest payment is $20,931, first year Oracle Maintenance cost is $196,485 and additional ERP project expenses is $1,650,000.

WHEREAS, certain budgetary transactions are necessary in Fiscal Years 2009-2010 and 2010-2011 Operating and Capital Improvement Program budgets as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Years 2009-2010 and 2010-2011 Operating and Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Budget Adjustment to Capital Improvement Program Budget					IT Reserves	Oracle Software Financing	AST Imp	Total
Expense Budget Adjustment Increases for CIP Project Account M480								
7130	070	M480	5455	Oracle Software Purchase		$893,110		$893,110
7130	070	M480	5456	AST Implementation Cost			$4,646,040	$4,646,040
7130	070	M480	5452	Infrastructure Cost	$590,000			$590,000
7130	070	M480	6010	City Staff Charges	$644,000			$644,000
7130	070	M480	0235	Professional Services	$416,000			$416,000
				Total Expenses for CIP M480	$1,650,000	$893,110	$4,646,040	$7,189,150
Expense Budget Adjustments for Loans, Transfers and Reserves to Fund CIP M480								
7130	800	8000	8003	IT Fund Reserves	$1,650,000			$1,650,000
7510	701	7001	7713	Loan from Employee Benefits to IT			$2,402,114	$2,402,114
0100	700	M480	7010	Transfer from General Fund		$461,759	$0	$461,759
0300	700	M480	7713	Capital Improvement Program		$21,764	$113,217	$134,981
0310	700	M480	7713	Solid Waste Spec Rev Fund		$5,071	$26,379	$31,450
0320	700	M480	7713	Education and Government Commun		$355	$1,848	$2,203
0330	700	M480	7713	Developers Fund		$200	$1,042	$1,242
0360	700	M480	7713	Carpenter Landfill		$480	$2,496	$2,976
0370	700	M480	7713	Green Waste Diversion Fund		$2,687	$13,978	$16,665
0510	700	M480	7713	LTF Street and Roads Fund		$755	$3,925	$4,680
0520	700	M480	7713	LTF Non-Motorized Fund		$106	$553	$659
0700	700	M480	7713	Surface Transportation Fund		$38,210	$198,774	$236,984
0800	700	M480	7713	Economic Development/Strategic		$1,110	$5,773	$6,883
0900	700	M480	7713	Downtown Improvement District		$196	$1,021	$1,218
1310	700	M480	7713	Police Dept CAP FAC Fund		$105	$544	$648
1320	700	M480	7713	Fire Dept CAP FAC Fund		$36	$189	$226
1350	700	M480	7713	Parks - CAP FAC Fund		$2,291	$11,918	$14,209
1380	700	M480	7713	General Government - CAP FAC Fund		$179	$933	$1,112
1390	700	M480	7713	Capital Facilities Administration Fund		$457	$2,376	$2,833
1410	700	M480	7713	Streets CAP FAC Fund		$11,544	$60,054	$71,598
1420	700	M480	7713	Public Transportation CAP FAC Fund		$25	$133	$158
1430	700	M480	7713	Air Quality CAP FAC Fund		$318	$1,655	$1,973
2900	700	M480	7713	Infrastructure Fin Program Admin		$16,794	$87,363	$104,157
6000	700	M480	7713	Parking Fund		$8,778	$45,665	$54,444
6100	700	M480	7713	Water Fund		$106,700	$555,064	$661,764
6210	700	M480	7713	Wastewater Fund		$110,223	$573,390	$683,613
6280	700	M480	7713	Storm Drainage Fund		$17,833	$92,767	$110,600
6290	700	M480	7713	Compost Operations Fund		$6,675	$34,724	$41,399
6310	700	M480	7713	Airport Operating Fund		$10,026	$52,155	$62,180
6510	700	M480	7713	Bus Fixed Route MAX Capital		$17,173	$89,336	$106,509
6520	700	M480	7713	Bus Service Fund - DAR		$1,315	$6,842	$8,157
6530	700	M480	7713	Transportation Center		$1,733	$9,014	$10,747
6540	700	M480	7713	Bus Fixed Route MAX Operations		$15,617	$81,241	$96,858
6550	700	M480	7713	Bus Fixed Route - Alt Transport		$825	$4,294	$5,119
6600	700	M480	7713	Golf Fund		$2,986	$15,534	$18,520
6700	700	M480	7713	Community Center Operations		$7,098	$36,923	$44,021
6710	700	M480	7713	Centre Plaza FF&E		$1,446	$7,522	$8,968
8100	700	M480	7713	JPA - Industrial Fire		$93	$484	$577
8850	700	M480	7713	Stanislaus Drug Enforcement Agency		$10,943	$56,927	$67,871
8900	700	M480	7713	Tuolumne River Regional Park		$3,278	$17,053	$20,331
8910	700	M480	7713	TRRP Special Revenue Fund - CIP		$106	$552	$658
9020	700	M480	7713	RDA COP Debt Service		$2,060	$10,714	$12,774
9050	700	M480	7713	RDA Administration		$545	$2,834	$3,379
9060	700	M480	7713	RDA Low and Mod Income Housing		$1,707	$8,881	$10,588
9080	700	M480	7713	RDA Project Fund		$1,507	$7,839	$9,346
				Total Loans and Transfers into M480	$1,650,000	$893,110	$4,646,040	$7,189,150

Budget Adjustment to Fiscal Year 2009/10 Operating Budget

Expense Budget Adjustment Increases for Operating Org								
7130	070	0756	0223	R&M Maintenance (Oracle Maintenance)	$196,485			$196,485
Expense Budget Adjustments for Reserves to Operating Org								
7130	800	8000	8003	IT Fund Reserves	$196,485			$196,485
				Grand Total	$1,846,485	$893,110	$4,646,040	$7,385,635

Budget Adjustment to Fiscal Year 2010/11 Operating Budget

Expense Budget Adjustment Increases for Operating Org						
7130	070	0756	0452		$20,931	$20,931
Expense Budget Adjustments for Transfers to Operating Org						
7510	701	7001	7713	Loan from Employee Benefits to IT	$10,822	$10,822
0300	700	M480	7713	Capital Improvement Program	$510	$510
0310	700	M480	7713	Solid Waste Spec Rev Fund	$119	$119
0320	700	M480	7713	Education and Government Commun	$8	$8
0330	700	M480	7713	Developers Fund	$5	$5
0360	700	M480	7713	Carpenter Landfill	$11	$11
0370	700	M480	7713	Green Waste Diversion Fund	$63	$63
0510	700	M480	7713	LTF Street and Roads Fund	$18	$18
0520	700	M480	7713	LTF Non-Motorized Fund	$2	$2
0700	700	M480	7713	Surface Transportation Fund	$896	$896
0800	700	M480	7713	Economic Development/Strategic	$26	$26
0900	700	M480	7713	Downtown Improvement District	$5	$5
1310	700	M480	7713	Police Dept CAP FAC Fund	$2	$2
1320	700	M480	7713	Fire Dept CAP FAC Fund	$1	$1
1350	700	M480	7713	Parks - CAP FAC Fund	$54	$54
1380	700	M480	7713	General Government - CAP FAC Fund	$4	$4
1390	700	M480	7713	Capital Facilities Administration Fund	$11	$11
1410	700	M480	7713	Streets CAP FAC Fund	$271	$271
1420	700	M480	7713	Public Transportation CAP FAC Fund	$1	$1
1430	700	M480	7713	Air Quality CAP FAC Fund	$7	$7
2900	700	M480	7713	Infrastructure Fin Program Admin	$394	$394
6000	700	M480	7713	Parking Fund	$206	$206
6100	700	M480	7713	Water Fund	$2,501	$2,501
6210	700	M480	7713	Wastewater Fund	$2,583	$2,583
6280	700	M480	7713	Storm Drainage Fund	$418	$418
6290	700	M480	7713	Compost Operations Fund	$156	$156
6310	700	M480	7713	Airport Operating Fund	$235	$235
6510	700	M480	7713	Bus Fixed Route MAX Capital	$402	$402
6520	700	M480	7713	Bus Service Fund - DAR	$31	$31
6530	700	M480	7713	Transportation Center	$41	$41
6540	700	M480	7713	Bus Fixed Route MAX Operations	$366	$366
6550	700	M480	7713	Bus Fixed Route - Alt Transport	$19	$19
6600	700	M480	7713	Golf Fund	$70	$70
6700	700	M480	7713	Community Center Operations	$166	$166
6710	700	M480	7713	Centre Plaza FF&E	$34	$34
8100	700	M480	7713	JPA - Industrial Fire	$2	$2
8850	700	M480	7713	Stanislaus Drug Enforcement Agency	$256	$256
8900	700	M480	7713	Tuolumne River Regional Park	$77	$77
8910	700	M480	7713	TRRP Special Revenue Fund - CIP	$2	$2
9020	700	M480	7713	RDA COP Debt Service	$48	$48
9050	700	M480	7713	RDA Administration	$13	$13
9060	700	M480	7713	RDA Low and Mod Income Housing	$40	$40
9080	700	M480	7713	RDA Project Fund	$35	$35
				Total Transfers into Operating Org	$20,931	$20,931

RESCINDED
Print
APR - 3 2012
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2012-135

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-222

A RESOLUTION RESCINDING ALL PREVIOUS SEWER FEES RESOLUTIONS AND ESTABLISHING FEES FOR THE PROVISION OF SEWER SERVICE FOR FISCAL YEARS 2011 THROUGH 2015

WHEREAS, Section 11-6.09 of the Modesto Municipal Code authorizes the Council to establish sewer service charges from time to time by resolution, and

WHEREAS, the Council has previously established sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on July 24, 2007, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, notices of a sewer rate adjustment and public hearing were mailed on June 8, 2007 to sewer customers, and

WHEREAS, insufficient protests were made to defeat imposition of the sewer rate adjustments resulting in increases in some cases, and

WHEREAS, City Council adopted Resolution 2007-463 which established maximum wastewater rates beginning August 1, 2007, and updated each July 1st through the year 2011, and

WHEREAS, the Final Master Environmental Impact Report for the WWMP was completed (State Clearing House No. 2006052076) and adopted by the City Council on March 13, 2007 by Resolution No. 2007-178, and

WHEREAS, in January 2009, in order to minimize wastewater rate increases as a result of lack of growth and local economic conditions, City staff delayed or phased the

Capital Improvement Program and reduced operating costs to the maximum extent possible, while still maintaining the requirements of the City's water quality and NPDES permit standards, and

WHEREAS, due to worsening local economic conditions, Staff recommended no rate increases for FY 2010, based on the assumption that the wastewater rate would be implemented on July 1, 2010, at the maximum rate allowed under Resolution 2007-463, and

WHEREAS, Staff has reviewed the Capital Improvement Program (CIP) and operations budgets of the Wastewater Enterprise Fund for both the current and upcoming fiscal years with the goal of minimizing any rate increase proposals for FY 2011 and beyond, and

WHEREAS, in order to maintain an adequate debt coverage ratio and operating reserves a series of rate increases will be required, and

WHEREAS, these series of rate increases do not exceed the maximum wastewater rates allowed by City Council Resolution 2007-463, and

WHEREAS, on March 22, 2010, the Finance Committee recommended that City Council adopt a series of wastewater rate increases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply.

1. Director: The City officer or designee in charge of utilities.

2. Monthly account charge: A monthly fee charged to every sewer account to pay the actual fixed sewer system costs not allocable to sewer flow and strength components.

3. Person. Any individual, partnership, corporation or other legal entity whatsoever applying for or receiving City sewer service.

SECTION 2. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE.

Each person receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

(a) The maximum monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks shall be as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Residential Rates	1-Jul-10	1-Jul-11	1-Jul-12	1-Jul-13	1-Jul-14
Monthly Account Charge ($/Account)	$3.43	$3.70	$4.04	$4.44	$4.75
plus Dwelling Unit Charge ($/Dwelling Unit)					
Single Family Residential, Mobile Home on a lot	$21.40	$23.12	$25.20	$27.72	$29.66
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	$18.38	$19.85	$21.63	$23.79	$25.46
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	$13.95	$15.06	$16.42	$18.06	$19.32

SECTION 3. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE.

Each person receiving commercial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) Commercial users shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as BOD) and Total Suspended Solids (hereinafter referred to as TSS) strength characteristics and shall pay sewer service charges based on the quantity of water used, and the waste strength characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

Maximum Commercial Rates	Year 1 1-Jul-10	Year 2 1-Jul-11	Year 3 1-Jul-12	Year 4 1-Jul-13	Year 5 1-Jul-14
Monthly Account Charge ($/Account)	$3.43	$3.70	$4.04	$4.44	$4.75
plus Quantity Charge ($/100 cubic feet)					
Group 1-BOD + TSS is 400 mg/l or less	$1.81	$1.96	$2.14	$2.35	$2.51
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	$2.24	$2.41	$2.63	$2.89	$3.09
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	$2.66	$2.87	$3.13	$3.44	$3.68
Group 4-BOD + TSS is 1,401 mg/l or more	$3.16	$3.41	$3.72	$4.09	$4.38

(b) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.

(1) Commercial users on a public water system other than the City's shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.

(2) Commercial users receiving any water from a private source shall allow the City to furnish, install and maintain a water meter with the user paying for the cost of the meter and installation. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Director.

(c) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:

(1) Receipt of transfer of title from the owner in a form satisfactory to the Director, and

(2) Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (b) above.

(d) Schools, churches, assembly halls and similar facilities shall be considered Group 1.

SECTION 4. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE.

Each person receiving industrial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

Maximum Industrial (Major and Minor) Rates	Year 1 1-Jul-10	Year 2 1-Jul-11	Year 3 1-Jul-12	Year 4 1-Jul-13	Year 5 1-Jul-14
Monthly Account Charge ($/Account)	$3.43	$3.70	$4.04	$4.44	$4.75
plus Quantity Charges (these three components are additive)					
Flow Charge ($/Million gallons)	$1,976.07	$2,134.15	$2,326.22	$2,558.84	$2,737.96
BOD Charge ($/1,000 lbs)	$98.11	$105.96	$115.49	$127.04	$135.93
TSS Charge ($/1,000 lbs)	$171.57	$185.29	$201.97	$222.17	$237.72

(1) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Director. The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

(2) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.

(3) The BOD and TSS charges for industrial and sanitary discharges shall be based on the measured or estimated BOD and TSS for each type of flow.

SECTION 5. FLOW ESTIMATES. The Director will estimate flow where he/she determines metered flow measurements are unreliable.

SECTION 6. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT

Charge	Year 1 1-Jul-10	Year 2 1-Jul-11	Year 3 1-Jul-12	Year 4 1-Jul-13	Year 5 1-Jul-14
Flow charge per 1,000 gallons	$51.68	$55.81	$60.83	$66.91	$71.59

SECTION 7. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE The cost of service set forth above shall be re-examined not less than every four years by professionals competent in the field. Such professionals shall provide a

report to the City updating both the fixed and volume based costs as appropriate and as recommended to the Council by the Director and Director of Finance. Beginning on July 1, 2015 and annually thereafter, the Director of Finance with the concurrence of the Director, shall have the authority to adjust the above rates by an amount not to exceed the not-seasonally-adjusted annual percentage increase in the April Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco CMSA that is currently prepared by the Department of Finance.

SECTION 8. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

(a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).

(b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.

(c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.

(d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.

(e) This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge

of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 9. SEWAGE TREATMENT FOR OUTSIDE PUBLIC AGENCIES. Pursuant to agreements approved from time to time by the City Council and the City Attorney (as to form), other public agencies will own and operate, and the City of Modesto will accept and treat sewage collected from, sewer systems external to the City and City's Sewer District No. 1.

SECTION 10. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2010.

SECTION 11. RESCINDING PRIOR RESOLUTIONS. All previous sewer fees resolutions are hereby rescinded effective July 1, 2010.

SECTION 12. ANNUAL REVIEW OF ADOPTED RATE INCREASES. The City Council, for fiscal years beginning after June 30, 2011, shall conduct a review of each adopted sewer rate increase prior to its implementation. Said review shall be completed by the City Council at least sixty days in advance of the new sewer rate becoming effective. The rates shown in this resolution shall be implemented on the dates shown unless City Council takes action otherwise.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of May, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-223

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FINANCE

This budget adjustment is to recognize $42,846 in revenue received for the insurance claim for the fire at 660 El Vista Avenue. This revenue will be used to fund reopening the City park bathrooms. After the Building Services fund is reimbursed $19,976 for costs incurred for demolition of the damaged building, the remaining $22,870 will be transferred to General Fund to fund $29,128 of costs to open City park bathrooms from March 1, 2010 to June 30, 2010. The remaining portion of the costs to reopen the bathrooms totaling $6,258 will be covered by a transfer from the Parks Development fund.

An adjustment is necessary to reduce appropriations by $114,780 in Capital Improvement Project E330, Traffic Control Upgrades-Gas Tax-Primary and close the account. Additionally, this adjustment will reduce the transfer from the Gas Tax Fund to the Capital Grants – Gas Tax Fund in the amount of $114,780.

An adjustment is necessary to reduce appropriations by $6,175 in Capital Improvement Project E737, Low Cost Traffic Improvements, and close the account. Additionally, this adjustment will reduce the transfer from the Gas Tax Fund to the Capital Grants – Gas Tax Fund in the amount of $6,175.

An adjustment is necessary to reduce appropriations by $95,726 in Capital Improvement Project E602, Traffic Control Devices, and close the account. Additionally, this adjustment will reduce the transfer from the Gas Tax Fund to the Capital Grants – Gas Tax Fund in the amount of $93,185.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-224

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PURCHASE OF A DATA MANAGEMENT BACKUP SOLUTION WITH DATA-MANAGEMENT CAPABILITIES, DATA-ARCHIVING, DATA-PRESERVATION, DISASTER RECOVERY, AND EDISCOVERY FROM DELL/COMMVAULT FOR A COST NOT TO EXCEED $252,000.00

WHEREAS, the City has an ongoing need to purchase a data management backup solution utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the City of Modesto has a need to backup electronic data for future interpretation and analysis, and

WHEREAS, the City of Modesto has a need to provide a data management system that can comprehensively address all data management necessities in an efficient and cost effective manner, 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, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception is Modesto Municipal Code Section 8-3.204(b) which states, "Where the Purchasing Agency's requirements can be met solely by a single article or process," and

WHEREAS, staff requests the Purchasing Manager be authorized to purchase through a "sole-source" purchase for a cost not to exceed $252,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to purchase through "sole-source" purchase for the purchase of a data management solution in an amount not to exceed $252,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-225

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) FOR $4.5 MILLION FOR THE NEW BUS MAINTENANCE FACILITY UNDER THE FTA'S STATE OF GOOD REPAIR BUS AND BUS FACILITIES PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Federal Transit Administration (FTA) has been delegated the authority to award Federal financial assistance for transportation-related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA for the new Bus Maintenance Facility (BMF) project, and

WHEREAS, the BMF project is eligible to receive up to 80% of its cost in funds from the FTA's State of Good Repair (SGR) Bus and Bus Facilities Program, and

WHEREAS, the City of Modesto is eligible to receive up to $4.5 Million (80% of the total cost of the project not funded with other FTA grant funds) for the New BMF project from FTA's SGR Bus and Bus Facilities Program, and

WHEREAS, the BMF project is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a grant application to the Federal Transit Administration for State of Good Repair Bus and Bus Facilities Program in the amount of $4.5 Million for the new Bus Maintenance Facility.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications, assurances, and other documents the FTA requires for awarding a Federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-226

RESOLUTION APPROVING THE SUBMITTAL OF A REVISED TRANSPORTATION DEVELOPMENT ACT (TDA) TRANSIT CLAIM TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) FOR FISCAL YEAR 2009-2010 IN THE AMOUNT OF $6,571,678

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds, and

WHEREAS, StanCOG has informed the City that the LTF apportionment for FY2009-10 has been reduced, and

WHEREAS, the City has developed an application for Fiscal Year 2009-2010 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2009-2010 is $6,571,678, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2009-2010 is $14,867,906, and

WHEREAS, Council action authorizing submission of the claim is required by StanCOG pursuant to Section 99261 of the California PUC before 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 submittal of a revised Transportation Development Act Transit claim to StanCOG for Fiscal Year 2009-2010 in the amount of $6,571,678.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-227

A RESOLUTION APPROVING AN AGREEMENT WITH MOZAFFARI ENGINEERING (MOZAFFARI) FOR ON-CALL STRUCTURAL ENGINEERING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning and Projects Department, Capital Improvement Services Division, performs a number of tasks requiring structural engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Utility Planning and Projects Department, Capital Improvement Services Division, has utilized the services of outside consultant engineers to perform targeted structural engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to structural engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Structural Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, three (3) Statements of Qualifications were received and the firm of Mozaffari was deemed most qualified to provide the requested on-call structural engineering services, and

WHEREAS, based on the City's previous experience, Mozaffari has rendered satisfactory services to the City in past projects, and

WHEREAS, Mozaffari will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Mozaffari will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Mozaffari prior to commencement of services, and

WHEREAS, Mozaffari will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Mozaffari Engineering for On-call Structural Engineering Services for various City projects for one (1) year, with two (2) one year extension options, in an amount not-to-exceed $45,000 per year. Total cost for three years is not to exceed $135,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is authorized to execute the Agreement, and up to two one-year extension options.

WHEREAS, based on the City's previous experience, Mozaffari has rendered satisfactory services to the City in past projects, and

WHEREAS, Mozaffari will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Mozaffari will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Mozaffari prior to commencement of services, and

WHEREAS, Mozaffari will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Mozaffari Engineering for On-call Structural Engineering Services for various City projects for one (1) year, with two (2) one year extension options, in an amount not-to-exceed $45,000 per year. Total cost for three years is not to exceed $135,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is authorized to execute the Agreement, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-228

A RESOLUTION APPROVING THE EXTENSION OF THE DEFERRAL OF CAPITAL FACILITIES FEES (CFF) FOR SINGLE-FAMILY RESIDENTIAL PERMITS UNTIL ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR A PERIOD OF ONE YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO DEFERRED PAYMENT AGREEMENTS AND NOTICE OF LIENS WITH APPLICANTS

WHEREAS, Modesto Municipal Code Section 8-1.904 currently requires Capital Facilities Fees (CFF) to be paid prior to issuance of any building permit, and

WHEREAS, on or about April of 2008, the Building Industry Association of Central California made a request to defer CFF until issuance of a Certificate of Occupancy, and

WHEREAS, in June 2008, the Economic Development Committee heard this issue and recommended that CFF be deferred until issuance of a Certificate of Occupancy for a period of one year, and

WHEREAS, on January 13, 2009, the City Council approved the deferral of CFF on single-family residential permits until a Certificate of Occupancy is issued for a period of one year, and

WHEREAS, prior to issuance of a building permit, anyone deferring payment of CFF will be required to enter into a deferred payment agreement, and

WHEREAS, a lien will be placed on the property until all CFF is paid, and

WHEREAS, to enter into a deferred payment agreement, an administrative fee must be paid to the City to monitor and ensure that CFF is paid, and

WHEREAS, due to current tough economic considerations times, it is appropriate to continue deferring the payment of CFF on single-family residential permits for one more year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the deferral of Capital Facilities Fees (CFF) for single-family residential permits until issuance of a Certificate of Occupancy, for a period of one year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to enter into deferred payment agreements and notice of liens with applicants.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-229

A RESOLUTION APPROVING THE EXPENDITURE OF THE CITY OF MODESTO'S REIMBURSEMENT ALLOCATION IN THE AMOUNT OF $133,782.83 FROM PRIOR STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS (SLESF) FOR DATA CONVERSION FOR THE NEW CAD/RMS PROJECT, A MAINTENANCE SERVICE CONTRACT FOR THE DOWNTOWN CAMERAS, FORENSIC COMPUTER EQUIPMENT FOR HI-TECH CRIMES, CANINE EQUIPMENT AND TRAINING EQUIPMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Modesto Police Department has been reimbursed $133,782.83 by a vendor that failed to fulfill its contractual obligation to implement technology upgrades, and

WHEREAS, the original technology related purchase was funded with the use of State Supplemental Law Enforcement Services Funds (SLESF) received in Fiscal Years 2005/06 and 2006/07, and

WHEREAS, the Police Department would like to take the reimbursed funds and reallocate them to purchase: Data Conversion for the new CAD/RMS project; a service maintenance contract for the Downtown Camera system; Forensic Computer Lab equipment for Hi-Tech crimes and; Canine and Training equipment, and

WHEREAS, the State of California Controller's Office Local Government Accounting and Reporting Unit has approved of the reallocation and use of reimbursed SLESF funds, and

WHEREAS, per the agreement, neither party can disclose the terms of the agreement that resulted in the reimbursement of funds, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve or reallocate the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the expenditure of the City of Modesto's reimbursement allocation in the amount of $133,782.83 from prior State Supplemental Law Enforcement Services Fund (SLESF) for Data Conversion for the new CAD/RMS project, a maintenance service contract for the downtown cameras, forensic computer equipment for Hi-Tech crimes, canine equipment, and training equipment.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-230

RESOLUTION SUPPORTING THE SAFE, CLEAN, AND RELIABLE DRINKING WATER SUPPLY ACT OF 2010 ON THE NOVEMBER 2010 BALLOT

WHEREAS, California's water system is outdated and straining to meet the needs of its residents, farms, businesses, and environment. Designed 30 years ago to serve 16 million residents, our water system now serves more than 38 million residents, and

WHEREAS, the challenges facing our water system are significant: severely limited supplies of water; rivers, lakes, streams, groundwater and other sources of drinking water threatened with contamination; water infrastructure - including levees, waterways and pipes - aging and at risk of failure; entire species of fish and wildlife crashing and our environment is at risk; and the Delta - which provides water to 25 million Californians, 2.5 million acres of farms, hundreds of miles of manmade levees that transport fresh water, and hundreds of species of wildlife - is at risk of catastrophic failure, and

WHEREAS, unless action is taken, experts warn that our state will face continued water shortages, the potential for catastrophic failure of our water delivery system, and environmental collapse in areas vital to drinking water and wildlife. The water supply crisis will also continue to harm our state's economy by slowing job creation, limiting agricultural production, and stalling economic growth, and

WHEREAS, immediate investments are needed to repair and upgrade our network of waterways, levees and other water infrastructure, clean up our sources of drinking water, increase local supplies, expand conservation efforts, and restore key ecosystems, and

WHEREAS, The Safe, Clean, and Reliable Drinking Water Supply Act of 2010 is a $11.14 billion bond on the November 2010 ballot that would provide funding to repair what's broken with California's water system, and

WHEREAS, voter approval of this measure will provide funding for programs throughout the state to increase water supply and reliability, address ecological problems in the Delta, add operational flexibility to the state's water storage and delivery system, and expand water recycling and conservation, and

WHEREAS, San Joaquin River Hydrologic Region, which includes Stanislaus County, will specifically benefit from this bond through funding to enhance local water supply and reliability, to clean up contaminated water supplies, to improve the physical infrastructure of our water system, and to fund environmental and species restorations and protections, and

WHEREAS, the North Valley Regional Recycled Water Project and the proposed Regional Surface Water Supply Project (TID) are both good examples of projects that would qualify for funding and would benefit from the bond,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the Safe, Clean, and Reliable Drinking Water Supply Act of 2010.

BE IT FURTHER RESOLVED that the Council hereby authorizes listing the City of Modesto support of the Safe, Clean and Reliable Drinking Water Supply Act of 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-231

A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO ESTABLISH THE CLASSIFICATIONS OF BUDGET AND FINANCIAL ANALYSIS MANAGER, CUSTOMER SERVICES MANAGER, FINANCIAL ANALYST I, FINANCIAL ANALYST II, FINANCIAL ANALYST III, AND SENIOR FINANCIAL ANALYST, AND DELETE ACCOUNTANT I, ACCOUNTANT II, BUDGET ANALYST I, BUDGET ANALYST II, BUDGET MANAGER, RATE & FEE ANALYST, SENIOR ACCOUNTANT, AND SUPERVISING ACCOUNTANT

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager, upon request of the Director of Finance, directed the Human Resources Department to conduct a classification study and internal salary relationship review of non-sworn positions within the Finance Department, and

WHEREAS, a review of the City of Modesto Finance Department classifications has been conducted by the Human Resources Department, and staff has made recommendations to the City Manager and Director of Finance for revising said classifications, and

WHEREAS, said recommendations have been reviewed by the City Manager and the Director of Finance, and the City Manager has recommended adoption and the deletion of classifications based on the classification study prepared by the Human Resources Department, and negotiated by Human Resources Department staff with the impacted employee associations representing City employees, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. CLASSIFICATIONS CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create classifications and job specifications for the classifications, as shown on the **attached exhibits**, which are hereby made a part of this resolution by reference, and are hereby approved and made part of the Position Classification Plan of the City of Modesto:

CLASSIFICATION	EXHIBIT
BUDGET AND FINANCIAL ANALYSIS MANAGER	"A"
CUSTOMER SERVICES MANAGER	"B"
FINANCIAL ANALYST I/II	"C"
FINANCIAL ANALYST III	"D"
SENIOR FINANCIAL ANALYST	"E"

SECTION II. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classifications:

ACCOUNTANT I

ACCOUNTANT II

BUDGET ANALYST I

BUDGET ANALYST II

BUDGET MANAGER

RATE AND FEE ANALYST

SENIOR ACCOUNTANT

SUPERVISING ACCOUNTANT

SECTION III. EFFECTIVE DATE. This resolution shall become effective on and after June 8, 2010.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No: 2362

BUDGET AND FINANCIAL ANALYSIS MANAGER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, and direct the activities of the Budget and Financial Analysis Division within the Finance Department; to coordinate division activities with other divisions or departments; and to provide highly responsible technical support to the Director of Finance.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from upper level management, including the Director of Finance, the City Manager and Mayor.

Exercises direct supervision over assigned supervisory and professional personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

Plan, organize and supervise the City's annual operating and multi-year capital improvement budget process; review budget adjustments and approve changes; prepare costs estimates for budget recommendations.

Plan, prioritize, assign, supervise and review the work of staff involved in the development, preparation and implementation of the City's annual budget.

Recommend and implement changes in budget format, procedures and processes, including the development of alternative budget systems; evaluate and participate in the design and implementation of management information systems; performs research and recommends best practices

Prepare multi-year forecast of revenues and expenditures.

Analyze actual revenues and expenditures in comparison to budget estimates and allocations; prepares and presents reports

Oversee the preparation of all budget documents including preliminary, proposed and adopted budget packages

Essential Functions: (Continued)

Participate in the review of capital improvement budgets, operating budgets, supplemental budget requests and mid-year budget adjustments; participates in budget presentation to council, commissions and groups.

Perform a variety of complex statistical and financial analyses including cost/benefit and program cost analysis

Review and analyze pending and new legislation to determine fiscal impact to the City.

Consult with management on various operating and CIP budget issues

Review department budget requests and changes to ensure compliance with applicable laws, rules, regulations and policies

Answer questions and provide information to the public as well as internal and external customers; investigate complaints and recommend corrective action as necessary to resolve complaints.

Participate in the selection of staff; coordinate staff training; conduct performance evaluations; recommend discipline; implement discipline procedures as directed.

Assist the City Manager and Director of Finance in assessing budget implications of various long-range projects, plans, and scenarios; oversee staff involved in the process, with particular emphasis on balancing staff resources devoted to budget preparation and monitoring versus long-range financial planning.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of supervision to include team dynamics and team building, leadership, mentoring, etc.

Principles and practices of public administration, organization and management.

Knowledge of: (Continued)

Principles of accounting and financial management.

Statistical methods.

Principles and practices of municipal budget preparation, administration and monitoring.

Pertinent local, State, Federal rules, regulations and laws.

Practical application of modern information technology to administrative and fiscal management tasks.

Principles and practices of research analysis and management.

Principles and practices of municipal budget development, preparation and administration.

Ability to:

Research, analyze and make recommendations on budgeting, administrative, management and fiscal practices.

Organize and direct the work of administrative, technical and clerical staff.

Perform complex budget analysis, preparation and monitoring.

Research, compile and analyze statistical and financial records and reports.

Write complex reports in a logical, comprehensive and concise manner.

Acquire subject matter expertise in the functions and activities including, but not limited to, laws, rules, regulations, procedures and technical operations.

Effectively represent the department to other departments and/or agencies, and before public bodies.

Make effective oral and written presentations of conclusions and recommendations.

Analyze information technology software as it relates to municipal financing and budgeting issues.

Ability to: (Continued)

Conduct complex economic and financial analyses; to interpret data and draw sound conclusions.

Forecast economic conditions and the impact thereof on the City budget and operations.

Estimate and project revenues and expenditures.

Interpret and explain pertinent budgetary and financial policies and procedures as well as City and department policies and procedures.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Communicate clearly and concisely, both orally and in writing.

Experience and Training Guidelines

Any combination of education and/or experience which has provided the knowledge, skills, and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible experience in accounting, financial management, budgeting, forecasting, or economics; including one year providing technical and functional supervision over assigned personnel.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in public or business administration, economics, finance or a related field.

A Master's degree with major course work in public or business administration, economics, finance, or a related field is highly desirable.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions require occasional overtime or weekend work and the ability to travel.

Class Spec History	
Adopted	6/10
Revised	
BU	Mgt/Conf NS

CITY OF MODESTO
No. 2368

CUSTOMER SERVICES MANAGER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, direct and coordinate the activities of the City's Customer Services Division within the Department of Finance including Utility Billing, Collections, Accounts Receivable, Citation Processing, Cashiering and Business Licensing; to coordinate Customer Services Division activities with other divisions and departments; and to provide highly responsible staff assistance to the Director of Finance.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director of Finance.

Exercises direct supervision over assigned supervisory and professional, technical and administrative personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS- *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Plan, organize and direct Customer Services Division activities including Utility Billing, Collections, Accounts Receivable, Citation Processing, Cashiering and Business Licensing.

Develop and implement divisional goals, objectives, policies and procedures.

Direct, oversee and participate in the development of the Customer Services Division work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Prepare the Customer Services Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials and supplies; administer the approved budget.

Recommend the appointment of personnel; provide or coordinate staff training, conduct performance evaluations; implement discipline procedures as required; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Develop and implement divisional goals, objectives, policies and procedures.

Essential Functions: (Continued)

Confer with other City departments regarding Customer Services related issues; implement internal controls to ensure governmental policy and regulations are met.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Represent the division and department to outside agencies and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Manage a variety of software systems.

Research and prepare technical and administrative reports; prepare written correspondence.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of excellence in customer services.

Principles and practices of leadership, motivation, team dynamics, team building and conflict resolution.

Pertinent local, State and Federal rules, regulations and laws.

Practical application of modern information technology to administrative and fiscal management tasks.

Principles and practices of organizational analysis and management.

Budgeting procedures and techniques.

Principles and practices of supervision, training and personnel management.

Ability to:

Organize and direct the Customer Services Division operations; implement a comprehensive Customer Services strategy to produce the greatest efficiency, service and value to the organization.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Interpret and apply applicable law, City and department policies, procedures, rules and regulations.

Prepare and administer a divisional budget.

Organize and direct the work of administrative, technical, and clerical staff.
Establish and maintain cooperative working relationships with those contacted in the course of work.

Make effective oral and written presentations of conclusions and recommendations.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible experience in Customer Service/Administrative Management; including one year providing technical and functional supervision over assigned personnel.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business administration, public administration, accounting, finance, economics or a related field.

License or Certificate:

Possession of or ability to obtain an appropriate valid California driver's license.

PHYSICAL REQUIREMENTS & WORKING CONDITIONS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions may require occasional overtime or weekend work and travel is rare.

Class Spec History	
Adopted	06/10
Revised	
BU	Mgt/Conf NS

CITY OF MODESTO
No. 3526
No. 3527

FINANCIAL ANALYST I
FINANCIAL ANALYST 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 a variety of professional accounting and budgeting duties, financial analysis and research relevant to economic financial data for both internal and external customers.

DISTINGUISHING CHARACTERISTICS

Financial Analyst I – This is the trainee level class in the Financial Analyst series. Positions in this class typically have minimal or no directly related work experience. The Financial Analyst I is distinguished from the II level by the performance of less than the full range of duties assigned to the II level or by performance of a limited scope of duties. Incumbents work under general supervision while learning job tasks, progressing to general direction as the procedures and processes of the assigned area of responsibility are learned. Most positions are allocated at the II level and incumbents advance to the II based on scope, complexity of work and level of independence.

Financial Analyst II - This is the intermediate entry level class in the Financial Analyst series and is distinguished from the I level by the performance of the more routine tasks and duties assigned to positions within this series. Employees at this level are not expected to perform with the same level of independence of direction and judgment on matters allocated to the Financial Analyst III. Employees work under general supervision while learning job tasks. Positions in this class are flexibly staffed and are normally filled by advancement from the I level. This position may supervise a limited number of administrative support personnel.

SUPERVISION RECEIVED AND EXERCISED

Financial Analyst I

Receives general supervision from higher level management staff.

Financial Analyst II

Receives direction from higher level management staff. May exercise supervision over assigned technical and/or administrative support personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS- *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Perform a variety of professional accounting and budgeting duties in support of departments within City government including payroll, investments and budget preparation, utilities and internal service operations.

Prepare and analyze monthly, annual and special financial statements and other documents; develop forecasts and projections; explain variances as directed.

Maintain a variety of complex and detailed records and logs related to the accounting and budgeting functions of an assigned department.

Review and update the City's budget manual and supplemental procedures; originate communication and distribute budget preparation materials to departments.

Schedule budget preparation tasks to meet established deadlines; coordinate budget related matters with departments for both operating and capital improvement budgets; providing training and guidance when necessary.

Calculate cost and revenue forecasts; maintain statistical and economic data influencing estimates; prepare proformas, worksheets, schedules and exhibits comprising the formal budget documents.

Evaluate the budget during the execution phase; identify variances requiring corrective action; recommend appropriate corrective action.

Prepare staff reports and special analyses as required.

Verify availability of funds to finance intended departmental and Council actions; research and evaluate potential revenue sources.

Review financial documents for accuracy and completion; assure transactions are charged to correct account.

Maintain general ledgers and sub-ledgers; prepare journal entries; reconcile accounts and balances; account for transfers to other funds.

Prepare complex statistical and narrative reports to provide financial information regarding operation of assigned department using personal computer equipment.

Perform a variety of routine duties in the annual budget preparation process of one or more City departments; monitor a variety of financial transactions that affect the budget; assure availability of funds and proper account coding.

Essential Functions: (Continued)

Prepare a variety of reports and other written materials regarding costs, capital outlay, revenues, cash flow projections, budget preparation procedures, fiscal impact and financial trends.

Perform routine accounting analysis of costs, fund balances, financial statements, budget worksheets and other data.

Assure compliance with established accounting policies, generally accepted accounting principles for municipal enterprises and governments and applicable laws, rules and regulations.

Monitor a variety of data processing reports regarding cash balances, billing, production, profit and loss, revenues and expenses and/or expenditures and other accounting data.

Perform routine fiscal and program analyses and make appropriate recommendations to supervisors.

Develop and maintain the chart of accounts.

Communicate effectively with all levels of staff; build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Financial Analyst I

Knowledge of:

Principles and practices of budget preparation, analysis & administration.

Various professional accounting standards such as generally accepted auditing standards and generally accepted accounting principles (GAAS, GAAP), generally accepted governmental auditing standards (GAGAS), and standards set by the governmental accounting standards board (GASB), financial accounting standards boards (FASB), general accounting office (GAO), and other regulatory agencies.

Technical report writing procedures.

Knowledge of: (Continued)

Knowledge of statistical methods.

Data processing applications related to routine accounting procedures.

Modern office practices, procedures and equipment including computers, computer applications and software.

Computer applications including spreadsheet, database, word processing and presentation software.

Ability to:

Analyze, verify, prepare, and maintain financial statements, documents, records and reports.

Apply various professional accounting standards to the maintenance of the City's financial transactions.

Learn governmental accounting principles and practices.

Perform fiscal and program analyses.

Meet schedules and time lines.

Utilize computers and automated equipment to produce worksheets and reports.

Apply accounting principles to the maintenance of financial transactions.

Reconcile and maintain records and files.

Learn and apply Federal, State and local laws and regulations.

Work and control sensitive, confidential information on assignments.

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:

None required. One year of responsible professional accounting, budget preparation or analysis experience is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business administration, public administration, accounting, finance, economics or a related field.

License or Certificate:

Possession of or ability to obtain an appropriate valid California driver's license.

Possession of a Certified Public Accountant (CPA) or Certified Management Accountant (CMA) is highly desirable,

Financial Analyst II

In addition to the qualifications for Financial Analyst I:

Knowledge of:

Principles and practices of municipal accounting, grant administration and reporting, and budget preparation and control.

Methods and techniques involved in conducting analytical studies of administrative and management practices and procedures.

Laws and regulations impacting City financial activities.

Ability to:

Apply pertinent Federal, State, and local laws, codes and regulations.

Understand general relationships between local, state and federal governments, public interest groups and private enterprise as the affect the City.

Apply complex laws and regulations impacting City financial activities.
Prepare and deliver clear and concise written and oral presentations.
Supervise, train and evaluate a limited number of assigned 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:

One year of responsible experience equivalent to Financial Analyst I in the City of Modesto. Experience including public sector accounting and budgeting is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business administration, public administration, accounting, finance, economics or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate valid California driver's license.

Possession of a Certified Public Accountant (CPA) or Certified Management Accountant (CMA) is highly desirable,

PHYSICAL REQUIREMENTS & WORKING CONDITIONS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions may require occasional overtime or weekend work and travel is rare.

Class Spec History	
Adopted	06/10
Revised	
BU	Mgt/Conf NS

CITY OF MODESTO
No. 3528

FINANCIAL ANALYST 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 complex professional accounting and budgeting duties, financial analysis and research relevant to economic financial data for both internal and external customers.

DISTINGUISHING CHARACTERISTICS

Financial Analyst III is the journey level class in the Financial Analyst series and is distinguished from the Financial Analyst I/II level by the assignment of the full range of duties and the complexity of the duties performed. Employees at this level receive only occasional instruction or assistance as new, unusual or unique situations arise, and are fully aware of the operating procedures and policies within the work unit. Positions in this class are normally filled by advancement from the I/II level. This classification receives direction from higher level management staff and may exercise supervision over assigned technical and/or administrative support personnel.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level management staff. May exercise supervision over assigned professional, technical and/or administrative support personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS- *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Perform a variety of professional accounting and budgeting duties in support of departments within City government including payroll, investments and budget preparation, utilities and internal service operations.

Prepare and analyze monthly, annual and special financial statements and other documents; develop forecasts and projections; explain variances as directed.

Maintain a variety of complex and detailed records and logs related to the accounting and budgeting functions of an assigned department.

Review and update the City's budget manual and supplemental procedures; originate communication and distribute budget preparation materials to departments.

Essential Functions: (Continued)

Schedule budget preparation tasks to meet established deadlines; coordinate budget related matters with departments for both operating and capital improvement budgets; providing training and guidance when necessary.

Calculate cost and revenue forecasts; maintain statistical and economic data influencing estimates; prepare proformas, worksheets, schedules and exhibits comprising the formal budget documents.

Evaluate the budget during the execution phase; identify variances requiring corrective action; recommend appropriate corrective action.

Prepare staff reports and special analyses as required.

Verify availability of funds to finance intended departmental and Council actions; research and evaluate potential revenue sources.

Review financial documents for accuracy and completion; assure transactions are charged to correct account.

Maintain general ledgers and sub-ledgers; prepare journal entries; reconcile accounts and balances; account for transfers to other funds.

Prepare complex statistical and narrative reports to provide financial information regarding operation of assigned department using personal computer equipment.

Perform a variety of routine duties in the annual budget preparation process of one or more City departments; monitor a variety of financial transactions that affect the budget; assure availability of funds and proper account coding.

Prepare a variety of reports and other written materials regarding costs, capital outlay, revenues, cash flow projections, budget preparation procedures, fiscal impact and financial trends.

Perform routine accounting analysis of costs, fund balances, financial statements, budget worksheets and other data.

Assure compliance with established accounting policies, generally accepted accounting principles for municipal enterprises and governments and applicable laws, rules and regulations.

Monitor a variety of data processing reports regarding cash balances, billing, production, profit and loss, revenues and expenses and/or expenditures and other accounting data.

Essential Functions: (Continued)

Perform routine fiscal and program analyses and make appropriate recommendations to supervisors.

Develop and maintain the chart of accounts.

Communicate effectively with all levels of staff; build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of budget preparation, analysis & administration.

Various professional accounting standards such as generally accepted auditing standards and generally accepted accounting principles (GAAS, GAAP), generally accepted governmental auditing standards (GAGAS), and standards set by the governmental accounting standards board (GASB), financial accounting standards boards (FASB), general accounting office (GAO), and other regulatory agencies.

Technical report writing procedures.

Knowledge of statistical methods.

Data processing applications related to routine accounting procedures.

Modern office practices, procedures and equipment including computers, computer applications and software.

Computer applications including spreadsheet, database, word processing and presentation software.

Principles and practices of municipal accounting, grant administration and reporting, and budget preparation and control.

Methods and techniques involved in conducting analytical studies of administrative and management practices and procedures.

Laws and regulations impacting City financial activities.

Ability to:

Analyze, verify, prepare, and maintain financial statements, documents, records and reports.

Apply various professional accounting standards to the maintenance of the City's financial transactions.

Learn governmental accounting principles and practices.

Perform fiscal and program analyses.

Meet schedules and time lines.

Utilize computers and automated equipment to produce worksheets and reports.

Apply accounting principles to the maintenance of financial transactions.

Reconcile and maintain records and files.

Learn and apply Federal, State and local laws and regulations.

Work and control sensitive, confidential information on assignments.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Apply pertinent Federal, State, and local laws, codes and regulations.

Understand general relationships between local, state and federal governments, public interest groups and private enterprise as the affect the City.

Apply complex laws and regulations impacting City financial activities.

Prepare and deliver clear and concise written and oral presentations.

Supervise, train and evaluate a limited number of assigned staff.
Analyze and prepare complex and technical financial documents and reports.

Perform fiscal and program analysis.

Provide instruction and assistance to others in resolving complex and unusual accounting/budget related problems.

Ability to: (Continued)

Read and interpret complex laws and regulations impacting City financial activities.

Train and provide effective supervision or lead direction on accounting projects and activities.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of responsible experience equivalent to Financial Analyst II in the City of Modesto. Experience including public sector accounting and budgeting is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business administration, public administration, accounting, finance, economics or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate valid California driver's license.

Possession of a Certified Public Accountant (CPA) or Certified Management Accountant (CMA) is highly desirable.

PHYSICAL REQUIREMENTS & WORKING CONDITIONS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions may require occasional overtime or weekend work and travel is rare.

Class Spec History	
Adopted	06/10
Revised	
BU	Mgt/Conf NS

CITY OF MODESTO
No. 3529

SENIOR FINANCIAL ANALYST

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To plan, organize, direct and supervise the work of assigned professional, technical and administrative personnel; and to perform a variety of advanced professional accounting and budgeting duties to include analyzing and processing financial data and preparing financial reports.

DISTINGUISHING CHARACTERISTICS

This is the advanced journey level in the Financial Analyst series. Positions at this level are distinguished from other classes within the series by the level of responsibility assumed, complexity of duties assigned, independence of action taken, by the amount of time spent performing the duties, and by the nature of the interactions. Employees in this class may supervise professional and/or administrative support personnel. Employees perform the most complex, difficult and responsible types of duties assigned to classes within this series, which may include providing direct and/or indirect supervision of assigned personnel and/or units. Employees at this level are required to be fully trained in all procedures related to assigned areas of responsibility.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level management staff.

May exercise technical and/or functional supervision over subordinate professional, technical and/or administrative support personnel.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS- *Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Perform accounting functions in support of payroll, investments and budget preparation, cash management, and review general government, utilities and internal service operations.

Maintain general ledger accounts; preparing journal entries, adjustments and closing entries; reconciling accounts.

Recommend and assist in the implementation of goals and objectives; establish methods for performing a variety of professional and technical accounting functions; implement policies and procedures.

Essential Functions: (Continued)

Review and evaluate laws, controls, grants, and administrative policies for guidelines in performing accounting and fiscal operations.

Plan, prioritize, assign, supervise and review the work of staffing involved in accounting and budgeting activities; serve as a technical advisor and resource to City departments and staff on accounting and budgeting related matters.

Prepare financial analysis, monitor budgets and communicate financial and budget information to data users.

Participate in the preparation of the Comprehensive Annual Financial Report and annual audit process.

Evaluate operations and activities of assigned responsibilities; recommend improvements and modifications; prepare various reports on operations and activities.

Assure compliance with Generally Accepted Accounting Principles, city ordinances and policies, and local, state and federal laws.

Plan, prioritize and review the work of staff assigned to a variety of financial, budgeting, administrative, and clerical work.

Develop schedules and methods to accomplish assignments ensuring work is completed in a timely and efficient manner.

May participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Participate in evaluating the activities of staff, recommending improvements and modifications.

Provide interpretation of administrative policies and technical procedures to other divisions, departments and outside agencies and organizations.

Assist in the preparation of presentation materials for the City Council, committees, outside businesses.

Respond to and resolve sensitive citizen or business inquires and complaints.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:
Principles and practices of supervision, training, and personnel management.

Principles and practices of managerial accounting, reporting and finance including cost allocation.

Principles and practices of governmental accounting and budget preparation, analysis and administration.

Various professional accounting standards such as generally accepted auditing standards and generally accepted accounting principles (GAAS, GAAP), generally accepted governmental auditing standards (GAGAS), and standards set by the governmental accounting standards board (GASB), financial accounting standards boards (FASB), general accounting office (GAO), and other regulatory agencies.

Pertinent federal, state, and local laws, codes and regulations.

Principles and practices of activity-based costing and management (ABC/M).

Laws, rules and regulations related to accounting procedures.

The use of specialized accounting and budget based information systems.

Technical report writing procedures.

Policies and procedures of cash management.

Capital financing models.

Modern office procedures, methods and computer equipment; standard business software.

Ability to:

Supervise, train, and evaluate assigned staff.

Analyze and prepare complex and technical financial documents and reports.

Understand, analyze and develop utility rate models.

Ability to: (Continued)

Perform complex fiscal and program analyses.

Read, interpret, apply and explain codes, rules, regulations, policies and procedures.

Develop and recommend policies and procedures related to assigned work unit.

Perform the most complex budget-related duties of the work unit.

Calculate and recommend various rates and fees.

Analyze financial data, develop conclusions based on the analysis and recommend one or more needed actions to prevent or solve problems.

Communicate effectively, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work.

Reconcile and maintain records and files.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three years of professional journey level accounting, auditing or budgeting experience including one year providing technical and functional supervision over assigned personnel. Experience is governmental accounting, grant accounting and auditing is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business administration, public administration, accounting, finance, economics or a related field.

License or Certificate:

Possession of or ability to obtain an appropriate valid California driver's license.

Possession of a Certified Public Accountant (CPA) or Certified Management Accountant (CMA) is highly desirable.

PHYSICAL REQUIREMENTS & WORKING CONDITIONS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 25 pounds. **Vision**: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity**: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking**: frequent hearing and talking, in person and on the phone. **Emotional/Psychological**: frequent decision making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental**: frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions may require occasional overtime or weekend work and travel is rare.

Class Spec History	
Adopted	06/10
Revised	
BU	Mgt/Conf NS

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-232

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-688 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANANGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO DELETE BUDGET MANAGER

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-688, which approved the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-688. Exhibit "A" entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes Effective January 6, 2009," attached to Resolution No. 2008-688, 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 June 8, 2010," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** deletes the classification of Budget Manager.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 8, 2010.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 8, 2010**

RANGE	TITLE
2420	Executive Assistant
2422	Office Supervisor - Personnel
2425	Executive Assistant to the City Council Executive Assistant to the City Manager Paralegal
2427	Legal Services Administrator
2431	Equal Opportunity Analyst/Paralegal
2434	Senior Auditor
2439	Employee Relations Coordinator
2444	Deputy City Attorney I Risk Manager
2448	Deputy City Attorney II
2452	~~**Budget Manager**~~ Deputy Chief Information Officer Deputy City Attorney III Deputy Director of Community and Economic Development Deputy Director of Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Human Resources Deputy Director of Public Works – Operations Deputy Director of Recreation and Neighborhoods
2455	Deputy Director of Utility Planning and Projects
2456	Senior Deputy City Attorney
2462	Assistant City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-233

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-683, TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD FINANCIAL ANALYST I, FINANCIAL ANALYST II, FINANACIAL ANALYST III, SENIOR FINANCIAL ANALYST, BUDGET AND FINANCIAL ANALYSIS MANAGER, AND CUSTOMER SERVICES MANAGER AND DELETE RATE & FEE ANALYST, ACCOUNTANT II, BUDGET ANALYST I, SENIOR ACCOUNTANT, BUDGET ANALYST II, AND SUPERVISING ACCOUNTANT

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-683, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-683. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 6, 2009," attached to Resolution No. 2008-683, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 8, 2010," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** establishes the salary ranges for the following "non-exempt" classifications:

CLASSIFICATION	SALARY RANGE
FINANCIAL ANALYST I	426
FINANCIAL ANALYST II	430

Said amended **Exhibit "A"** establishes the salary ranges for the following "exempt" classifications:

CLASSIFICATION	SALARY RANGE
FINANCIAL ANALYST III	434
SENIOR FINANCIAL ANALYST	438
BUDGET AND FINANCIAL ANALYSIS MANAGER	442
CUSTOMER SERVICES MANAGER	442

Said amended **Exhibit "A"** also deletes the classifications of Rate & Fee Analyst, Accountant II, Budget Analyst I, Senior Accountant, Budget Analyst II, and Supervising Accountant.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 8, 2010.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 8, 2010**

RANGE	TITLE
407	Administrative Office Assistant II (Confidential)
411	Administrative Office Assistant III (Confidential)
412	Police Clerk II (Confidential)
414	Legal Secretary I
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential)
418	Legal Secretary II Systems Technician I
419	Administrative Services Technician II (Confidential) Workers' Compensation Claims Assistant
420	Deputy City Clerk Employee Benefits Coordinator Executive Assistant Senior Legal Secretary
422	Office Supervisor Systems Technician II Workers' Compensation Claims Examiner I
423	Custodian Supervisor Parking Services Supervisor
424	Buyer
425	Police Facilities Coordinator Public Information Analyst
426	Assistant Planner Central Stores Supervisor **Financial Analyst I** Senior Systems Technician

RANGE	TITLE
427	Administrative Analyst I
	Animal Control Supervisor
	Human Resources Analyst I
	Police Civilian Supervisor
	~~**Rate and Fee Analyst**~~
	Technology Solutions Analyst I
	Workers' Compensation Claims Examiner II
428	~~**Accountant II**~~
	Assistant City Clerk
430	Associate Planner
	~~**Budget Analyst I**~~
	Financial Analyst II
	Senior Buyer
	Software Analyst I
	Systems Engineer I
431	Administrative Analyst II
	Events Coordinator
	Human Resources Analyst II
	Risk and Loss Control Coordinator
	Senior Workers' Compensation Claims Examiner
	Technology Solutions Analyst II
432	Compost Facility Supervisor
	Junior Engineer
	Neighborhood Preservation Supervisor
	Operations Supervisor
	Parks Project Coordinator
	Recreation Supervisor
	~~**Senior Accountant**~~
	Senior Crime and Intelligence Analyst
	Wastewater Collection Systems Supervisor
	Water Quality Control Plant Maintenance Supervisor
433	Water Resources Analyst

RANGE	TITLE
434	~~**Budget Analyst II**~~
	Customer Services Supervisor
	Financial Analyst III
	Recycling Program Coordinator
	Senior Community Development Program Specialist
	Software Analyst II
	~~**Supervising Accountant**~~
	Systems Engineer II
435	Assistant Transportation Planner
	Business Analyst
	Cultural Services Program Manager
	Emergency Medical Services Coordinator
	Facility Supervisor
	Management Analyst
	Organizational Development Coordinator
	Transit Analyst
	Weed and Seed Program Coordinator
436	Assistant Engineer
	Deputy Fire Marshal
	Electrical Supervisor
	Environmental and Water Quality Laboratory Supervisor
	Housing Rehabilitation Supervisor
	Senior Planner
437	Senior Human Resources Analyst
438	Associate Land Surveyor
	Integrated Waste Specialist
	Property Agent
	Public Safety Business Services Analyst
	Senior Financial Analyst
	Senior Software Analyst
	Senior Systems Engineer
	Water Distribution and Production Supervisor
439	Administrative Services Officer
	Associate Transportation Planner
	Senior Business Analyst

RANGE	TITLE
440	Associate Engineer
	Environmental Regulatory Compliance Administrator
	Recreation Program Manager
	Water Quality Control Operations Supervisor
441	Building Maintenance Manager
	Events Supervisor
	Fleet Manager
	Housing and Urban Development Manager
	Infrastructure Financing Program Administrator
	Parks Operations Manager
	Parks Planning and Development Manager
	Streets Manager
	Urban Forestry Manager
	Wastewater Collections Manager
442	**Budget and Financial Analysis Manager**
	Construction Inspection Supervisor
	Customer Services Manager
	Principal Accountant
	Principal Software Analyst
	Principal Systems Engineer
	Purchasing Manager
443	Associate Civil/Traffic Engineer
	Senior Transportation Planner
444	Airport Manager
	Building Inspection Program Coordinator
	Building Inspection Supervisor
	Principal Planner
	Solid Waste Program Manager
	Transit Manager
446	Assistant Chief Building Official
	Information Technology Manager
	Water Quality Control Plant Manager
447	Traffic Operations Engineer
	Water Systems Manager

RANGE	TITLE
450	Business Development Manager
	Chief Building Official
	Planning Manager
	Senior Civil Engineer
452	City Engineer
	Traffic Engineer

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-234

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-682 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO DELETE ACCOUNTANT I

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-682, which approved the Class Range Table for General Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-682 Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective January 6, 2009," attached to Resolution No. 2008-682, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective June 8, 2010," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** deletes the classification of Accountant I.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 8, 2010.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective June 8, 2010

RANGE	TITLE
103	Administrative Office Assistant I
	Custodian I
107	Administrative Office Assistant II
	Custodian II
	Exhibits Coordinator
109	Account Clerk I
	Customer Services Account Clerk I
110	Maintenance Worker I
111	Account Clerk II
	Administrative Office Assistant III
	Custodian Crewleader
	Customer Services Account Clerk II
114	Electrician Assistant I
	Equipment Service Technician
	Maintenance Worker II
	Production Technician
	Storeskeeper
115	Administrative Services Technician I
	Senior Administrative Office Assistant
	Senior Customer Services Account Clerk
116	Account Technician
	Airport Maintenance Worker
	Equipment Operator
	Groundskeeper
	Traffic Operations Technician
	Wastewater Collection Systems Operator I
	Water Distribution Operator I

RANGE	TITLE
118	Electrician Assistant II Fleet Procurement Technician Parking Facilities Crewleader Parks Maintenance Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Building Maintenance Technician Code Enforcement Officer I -Neighborhood Preservation Unit Customer Services Account Technician Parks Maintenance Mechanic
120	Assistant Buyer Environmental Compliance Technician Laboratory Analyst I Senior Equipment Operator Traffic Striping Crewleader Wastewater Collection System Operator II Wastewater Treatment Plant Operator I Water Quality Control Technician I Water Resource Specialist
121	Solid Waste Enforcement Officer
122	~~**Accountant I**~~ Development Services Technician I Electrician Assistant III Equipment Mechanic Tree Trimmer Crewleader Welder/Fabricator
123	Code Enforcement Officer II -Neighborhood Preservation Unit Engineering Assistant Trainee

RANGE	TITLE
124	Airport Maintenance Crewleader
	Community Development Program Specialist I
	Cross Connection Specialist
	Development Services Technician II
	Environmental Compliance Inspector I
	Fire Equipment Mechanic
	Head Groundskeeper
	Heavy Equipment Mechanic
	Laboratory Analyst II
	Operations Crewleader
	Wastewater Treatment Plant Operator II
	Water Conservation Specialist
	Water Distribution Operator III
	Water Production Operator I
	Water Quality Control Technician II
	Water Services Equipment Operator I
125	Parking Adjudication Program Coordinator
126	Equipment Mechanic Crewleader
	Housing Financial Specialist
	Housing Rehabilitation Specialist I
	Wastewater Collection System Crewleader
	Wastewater Treatment Plant Operator III
127	Engineering Assistant I
128	Building Inspector I
	Community Development Program Specialist II
	Electrician - Traffic and Buildings
	Electrician - Utilities
	Environmental Compliance Inspector II
	Heavy Equipment Mechanic Crewleader
	Instrumentation Technician
	Senior Fire Equipment Mechanic
	Water Production Operator II
	Water Services Equipment Operator II
130	Construction Inspector
	Housing Rehabilitation Specialist II
	Laboratory Analyst III
	Senior Wastewater Treatment Plant Operator

RANGE	TITLE
131	Engineering Assistant II
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	Assistant Land Surveyor
134	Plans Examiner Senior Construction Inspector
135	Engineering Project Coordinator
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-235

A RESOLUTION APPROVING THE STREET CLOSURE AND CERTIFIED FARMERS MARKET TO CONDUCT A FARMERS' MARKET ON 10TH STREET BETWEEN H AND I STREETS, IN THE CITY OF MODESTO, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, in May, 2010, representatives from SunBlest Valley Market applied for a temporary street closure permit to operate a farmers' market on 10th Street, between H and I Streets, in downtown Modesto, and

WHEREAS, the temporary permit was issued, however the applicant was advised that City Council approval is required for ongoing authorization to use this location to operate a farmers' market, and

WHEREAS, the applicant has requested to operate a farmers' market on 10th Street, between H and I Streets, in downtown Modesto with the conditions described in **Attachment A**, and

WHEREAS, farmers' markets are a permitted use in all areas designated as commercial zones, and

WHEREAS, there are currently three (3) farmers' markets in Modesto: the Certified Farmers' Market on 16th Street, between H and I Streets; the Farmers' Market operating on McHenry Avenue; and a third market at Kaiser Permanente Hospital, and

WHEREAS, the Modesto Certified Farmers' Market received Council approval to operate and close 16th Street between H and I Streets on Thursdays and Saturdays, and

WHEREAS, the markets on McHenry Avenue and at Kaiser Permanente are located on private property and do not require street closure, and

WHEREAS, because Kaiser is located in a Planned Development Zone, an amendment allowing operation of a farmers' market was approved by Council on March 28, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the street closure and Certified Farmers' Market on 10th Street, between H and I Streets, in the City of Modesto, subject to the conditions described in **Attachment A.**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A
Conditions of Approval

1. The Market may use 10th Street between H and I Streets beginning the first Saturday in May and each Saturday thereafter through the last Saturday in November. The Market will coordinate any schedule conflicts with existing events.

2. The closure of 10th Street between H and I Streets will be from 6:00 a.m. to 2:00 p.m., with the actual hours of operation 7:30 a.m. to 1:00 p.m. The hours of 6:00 a.m. – 7:30 a.m. and 1:00 p.m. to 2:00 p.m. will be used for set up and dismantling and clean-up.

3. Three categories of products may be sold to the public:
    a. Certified agricultural products: defined as raw fruits, nuts, vegetables, honey and eggs in the shell, all in the unprocessed state, grown and sold by a certified farmer with proper documentation.
    b. Non-certified agricultural products: defined as processed food sold by the farmer that grew them.
    c. Non-agricultural products: defined as foods that are not certified or non-certified such as baked goods.

4. The Market shall publish a set of market rules and regulations which specify procedural criteria pertaining to:
    a. Admission of any producer to the market;
    b. Admission of any agricultural products to the market; and
    c. Removal of any producer from the market.

    The Market has the authority to establish specific rules and regulations for:
    a. Type and number of producers and certified producers admitted;
    b. Type and number of certified and non-certifiable products admitted; and
    c. Methods of selling certified and non-certifiable agricultural products.

5. The Market's rules and regulations shall be in writing and shall be made available to anyone who requests a copy. They shall contain a clause that states the Market shall implement and enforce all rules and regulations pertaining to the operation of a certified farmers' market in a fair and equitable manner. A copy of the rules and regulations shall be sent to the Department of Food and Agriculture, Fruit and Vegetable Quality Control Standardization and to the Agricultural Commissioner of Stanislaus County.

6. The Market shall obtain a Certified Farmers' Market Certificate in accordance with the provisions of Section 1392.2(a) of the Food and Agriculture Code of the State of California.

7. The Market, as sponsor, shall obtain a business license in accordance with Article 1 of Chapter 1 of Title VI of the Modesto Municipal Code. The business license is applicable to all of the Market's certified agricultural and non-certified agricultural product vendors. The Market will be exempt from the payment of a business license

tax, as provided in Section 6-1.106 of the Municipal Code, when the Market has obtained its non-profit designation from the Secretary of State.

8. Each non-agricultural product vendor must obtain a business license from the City of Modesto in accordance with the provisions of Article 1 of Chapter 1 of Title VI of the Modesto Municipal code.

9. The Market shall remove from 10th Street, between H and I Streets, in the City of Modesto and all areas adjacent thereto all trash and debris generated as a result of the farmers' market. The removal of trash and debris shall be completed by 2:00 p.m. on each Saturday that the farmers' market is conducted.

10. The Market shall indemnify, defend and hold the City of Modesto, its officers, agents, employees, and volunteers free and harmless from and against all liabilities, judgments, claims, demands, actions, losses, damages, or costs, including litigation costs and attorney fees from every cause arising directly or indirectly out of, or in any way related to, the Market's use of the area known as 10th Street, between H and I Streets, in the City of Modesto and all areas adjacent thereto. Upon demand, the Market shall, at its own expense, defend the City of Modesto, its officers, agents, employees, and volunteers against all such liabilities, claims, judgments, demands, actions, losses, damages or costs.

11. The Market 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. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

    a. General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent producers and subcontractors; products and completed operations as applicable.
    b. The Market shall provide the City with a separate endorsement evidencing proof of the City's additional insured status as to the General Liability insurance policy. The endorsement must include the applicable policy number.
    c. For any claims related to this project, the Market's insurance coverage shall be the primary insurance as respects the Market, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the market, its officers, officials, employees, or volunteers shall be excess of the Market's insurance and shall not contribute with it.

12. This authorization shall remain in full force and effect unless and until such time as it is rescinded by the City Council.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-236

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 AND 2, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON AUGUST 4, 2010

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 and 2, and

WHEREAS, said assessment district was formed in accordance with the "Landscaping and Lighting Act of 1972", (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by the Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Streets and Highways Code Section 22623 requires the Council to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the Council to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the Council on the levy of the proposed assessment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during Fiscal Year 2010-11.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance

Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the northeast corner of Yosemite Boulevard and North McClure Road. District 2 is bounded by Yosemite Boulevard on the south, North McClure Road on the west, Yosemite Meadows Drive on the east, and Mechalys Way on the north.

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Wednesday, the 4th day of August, 2010, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City

Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscaping and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-237

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6 AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON AUGUST 4, 2010

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the "Landscape and Lighting Act of 1972", (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Streets and Highways Code Section 22623 requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2010-11.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that

the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Wednesday, the 4th day of August, 2010, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City

Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscape and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-238

A RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE PURCHASE AND INSTALLATION OF MOTOROLA P25 SIMULCAST CELL, DIGITAL TRUNKING PUBLIC SAFETY COMMUNICATION EQUIPMENT FOR THE MODESTO POLICE DEPARTMENT AND STANISLAUS REGIONAL COMMUNICATION CENTER, TO MOTOROLA COMMUNICATIONS, BURLINGAME, CA, AND DELTA WIRELESS, TURLOCK, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE ORDERS FOR AN ESTIMATED TOTAL COST OF $984,018

WHEREAS, two years ago Stanislaus County hired MACRO Corp. through a Request for Proposal (RFP) process to perform a countywide communications study, and

WHEREAS, MACRO Corp. recommended a countywide, 14 site, 700-800MHz, P25, simulcast trunking system be installed to replace all existing communication systems in the county, and

WHEREAS, this system will provide much needed inter-operability between all agencies and will improve radio communications countywide, and

WHEREAS, based on MACRO's recommendations, a committee was formed to look at available P25 simulcast trunking systems and to select the best system to fit the needs of all agencies within Stanislaus County, and

WHEREAS, the committee researched P25 standards, manufactures of P25 backbone equipment, and developed a list of minimum requirements, as well as an outlined plan of the sites that were to be installed first for the new communications system, and

WHEREAS, the committee unanimously selected the Motorola simulcast solution over the other two manufacturers, and

RESCINDED
DEC 13 2011
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2011-472

WHEREAS, Delta Wireless is the current contracted vendor for radio backbone equipment installation and maintenance for the County and the Cities of Turlock, Ceres and Modesto, and

WHEREAS, the equipment that will be installed in this project is the newest technology available and requires factory trained and authorized technicians to install and maintain, and

WHEREAS, to ensure that our factory warranty is not jeopardized Motorola requires that a Premier Service Provider must install and maintain this equipment, and

WHEREAS, Delta Wireless is the only service provider that meets the qualifications in the Sacramento, Stanislaus, San Joaquin County area, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, one exception, MMC Section 8-3.204(b) states, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement for the purchase and installation of Motorola P25 Simulcast Cell, Digital Trunking Public Safety Communication Equipment for the Modesto Police Department and Stanislaus Regional Communication Center, to Motorola Communications, Burlingame, CA, and Delta Wireless, Turlock, CA, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a sole source procurement for the purchase and installation of Motorola P25 Simulcast Cell, Digital Trunking Public Safety Communication Equipment

for the Modesto Police Department and Stanislaus Regional Communication Center, to Motorola Communications, Burlingame, CA and Delta Wireless, Turlock CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase orders for an estimated total cost of $984,018.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-239

A RESOLUTION AMENDING THE MULTI-YEAR 2009/10 OPERATING BUDGET ESTIMATING REVENUE OF $350,738 FROM STANISLAUS COUNTY FROM THE 2008 COPS GRANT TO COVER THE REMAINING EXPENSES FOR THIS PURCHASE

WHEREAS, two years ago Stanislaus County hired MACRO Corp. through a Request for Proposal (RFP) process to perform a countywide communications study, and

WHEREAS, MACRO Corp recommended a countywide, 14 site, 700-800MHz, P25, simulcast trunking system be installed to replace all existing communication systems in the County, and

WHEREAS, based on MACRO's recommendations, a committee was formed to look at available P25 simulcast trunking systems and to select the best system to fit the needs of all agencies within Stanislaus County, and

WHEREAS, the committee unanimously selected the Motorola simulcast solution, and

WHEREAS, Delta Wireless is the current contracted vendor for radio backbone equipment installation and maintenance for the County and the Cities of Turlock, Ceres and Modesto, and

WHEREAS, the estimated total cost for this purchase is $984,018 which will be partially funded through two City of Modesto 2008 and 2009 COPS grants in the amount of $633,280, and

WHEREAS, the additional funding in the amount of $350,738 will be funded through a Stanislaus County 2008 COPS grant, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant and will reimburse the City of Modesto for their portion of the cost for this purchase, and

WHEREAS, the Multi-Year 2009/10 Operating Budget will be amended in the amount of $350,738 and appropriating funds in organization 0410-190-2910 for the Stanislaus County 2008 COPS grant to fund this purchase,

Revenues:

0410-190-2910-3508 – COPS 2008 Federal Grant	$133,280
0410-190-2501-3508 – COPS 2009 Federal Grant	$500,000
0410-190-2910-3503 – County COPS 2008 Fed Grant	$350,738
TOTAL	$984,018

Expenses:

0410-190-2910-0235 – Professional Services	$73,137
0410-190-2910-5000 – Non-CIP Capital	$410,881
0410-190-2501-5000 – Non-CIP Capital	$500,000
TOTAL	$984,018

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Multi-Year 2009/10 Operating Budget estimating revenue of $350,738 from Stanislaus County from the 2008 COPS grant to cover the remaining expenses for this purchase.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-240

A RESOLUTION APPROVING AN AGREEMENT WITH THE STATE OF CALIFORNIA, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST), FOR UP TO $14,490 TO PROVIDE TRAINING FOR 70 STUDENTS IN FOUR-HOUR FORCE OPTIONS SIMULATOR COURSES AND 70 STUDENTS IN FOUR-HOUR MOBILE FORCE OPTIONS SIMULATOR TRAINING COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Police Department acquired the Force Options Simulator (FOS) in 1999, and

WHEREAS, the FOS is a 42-foot trailer that contains state-of-the-art video technology, and

WHEREAS, the video scenarios place an officer in a position to make critical decisions regarding the use of force, and

WHEREAS, the FOS training provides the student with practical handling of volatile situations and the proper use of available force options, and

WHEREAS, the training goal is to reduce unnecessary deaths, injuries, liability costs, and improve safety overall for California law enforcement personnel and the public, and

WHEREAS, when the Police Department acquired the FOS, the State of California Commission on Peace Officer Standards and Training (POST) agreed to reimburse the Modesto Police Department for training administered via the FOS, or the Mobile FOS, and

WHEREAS, when the training is conducted locally, the FOS reimbursement is $79.00 per student, and

WHEREAS, when the training is conducted outside the local area, the reimbursement is $128.00 per student, and

WHEREAS, the maximum reimbursement is 70 students locally ($5,530) and 70 students when the simulator is at another jurisdiction ($8,960), and

WHEREAS, the projected total annual reimbursement is $14,490, and

WHEREAS, staff estimates these reimbursements will fully cover the cost of the officer's salary, per diem, mileage, and routine maintenance expenses for the simulator and transport vehicle, and

WHEREAS, POST is requesting a renewal of the Agreement for the term July 1, 2010 through June 30, 2011, and

WHEREAS, the City of Modesto will realize General Fund Revenue of up to $14,490 into new revenue account 0100-190-1921-3126, Simulator Training Account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the State of California, Commission on Peace Officer Standards and Training (POST), for up to $14,490 to provide training for 70 students in four-hour Force Options Simulator Courses and 70 students in four-hour Mobile Force Options Simulator training courses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-241

RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2010-2011 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) IN THE AMOUNT OF $6,333,261

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds, and

WHEREAS, StanCOG has informed the Finance Department that LTF funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Articles 4 and 8 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2010-2011 pursuant to these sections of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2010-2011 is $6,333,261, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2010-2011 is $14,817,463, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the Transportation Development Act transit claim for Fiscal Year 2010-2011 to StanCOG in the amount of $6,333,261.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-242

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF OBTAINING PERMISSION TO MAKE IMPROVEMENTS WITHIN MID LATERAL 3 FOR THE TANK 5 BLENDLINE PROJECT AND THE CITY'S WATER DISTRIBUTION SYSTEM TO USE CERTAIN REAL PROPERTY LOCATED WITHIN MID RIGHT-OF-WAY, AS DESCRIBED IN EXHIBITS A, B, AND C OF THE LICENSE AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires to construct improvements for the Tank 5 Blendline project and the City's Water Distribution System, and

WHEREAS, MID will grant to Licensee, at Licensee's expense, permission to make improvements within 8,698 square feet of Lateral 3, as described in **Exhibits A, B, and C** of the License Agreement, as part of Modesto's Tank 5 Blendline project consisting of the installation of a City water line, hereinafter referred to as the "Improvements," and

WHEREAS, MID requires a License Agreement prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the MID right-of-way for the Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of obtaining permission to make improvements within MID Lateral 3 for the Tank 5 Blendline project and the City's Water Distribution System to use certain real property located within MID right-of-way, as described in **Exhibits A, B, and C** of the License Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RECORDED AT THE REQUEST OF:

MODESTO IRRIGATION DISTRICT

AFTER RECORDING RETURN TO:

Modesto Irrigation District
1231 Eleventh Street
P. O. Box 4060
Modesto, CA 95352

LICENSE AGREEMENT

This Agreement is made and entered into this ___ day of _____, 20___, by and between Modesto Irrigation District, a California irrigation district (hereinafter, the "District"), and City of Modesto, a municipal corporation (hereinafter, the "Licensee"), and is made with regard to the following facts and circumstances, among others:

A. District has an interest in certain real property within the City of Modesto consisting of a strip of land with certain improvements thereon, which real property is commonly known as and referred to as District's Lateral No. 3, hereinafter referred to as "Lateral 3".

B. Licensee desires, at Licensee's expense, permission to install a 12" water main approximately 788 feet in length, hereinafter referred to as the "Improvements" for its Tank 5 Blendline Project.

C. The District, as an accommodation to Licensee, is willing to grant such permission on the terms and conditions set forth herein.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The District hereby grants to Licensee permission for Licensee to use a ten (10) foot portion of its' rights-of-way as described in Exhibit A and shown on Exhibit B (the "License Area"), solely for the purpose of installing, operating and maintaining the above referenced City "Improvements" across the District's "Lateral 3. The Improvements to be installed and maintained by Licensee shall conform to the plans attached as Exhibit "C" incorporated herein by this reference.

2. The District requires that any trenching maintain a 1:1 horizontal distance from any existing pole determined by the depth of the trench. If trenching encroaches on this requirement, Licensee must identify potentially affected poles and arrange any required pole bracing with the District. The cost for any required pole bracing will be assumed by the Licensee.

3. Except as specifically provided for in this Agreement, no alteration, improvement, installation, construction or use shall be made or permitted by Licensee in, on, under, along, across or in respect to the License Area.

4. This Agreement grants or creates a bare license only, and not a license coupled with an interest. This Agreement does not grant or create an easement, nor does it convey or transfer to Licensee any right, title or interest in or to any property of District. The license granted herein is nonexclusive. All rights granted hereunder are subject and subordinate to all uses and purposes District may now or in the future make of the License Area. Licensee shall have no license, right or privilege with respect to the License Area other than the permission and privileges specifically and expressly granted by this Agreement.

5. Licensee shall not impair the access by District to any of its property or facilities by persons or machines for the purposes of construction, maintenance or operation of its properties or facilities.

6. Licensee shall not use or cause the License Area to be used in any manner that will interfere with, be inconsistent with, or jeopardize the safety of, any use or purpose of District.

7. In the event District shall at any time so require for District's use or protection of its properties or facilities, Licensee, at Licensee's expense, shall alter, relocate or cease use of the Improvements.

8. All use by Licensee of the License Area, including the construction, placement, inspection, maintenance, replacement and use of the Improvements, shall comply with all applicable federal, state and local laws, regulations, statutes, ordinances and codes, [including without limitation occupational safety and health acts,] and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the work to be performed under this Agreement (collectively, "laws").

9. Licensee shall obtain District's approval of any and all grading and improvement plans and schedules prior to the commencement of any work within the License Area; provided, however, such approval shall not unreasonably be withheld. District may at its discretion, but is not required to, inspect any and all work performed by Licensee, or Licensee's employees, agents or contractors, within the License Area. District's rights hereunder to approve and inspect shall not impose any duties or obligations on District, nor shall such rights relieve Licensee of the sole responsibility for the plans, schedules and work, or relieve Licensee of its contractual responsibilities hereunder.

10. In constructing, placing, inspecting, maintaining, and replacing the Improvements, Licensee shall, in addition to all other requirements and limitations set forth herein, comply with each of the following:

A. Licensee shall be solely responsible for the construction, placement, inspection, maintenance, replacement and use of the License Area and the Improvements permitted therein by this Agreement.

B. Licensee shall bear all costs and expenses for placement, maintenance, inspection, replacement, use and removal of the Improvements. The District shall incur no cost or expense in connection with the Improvements.

11. Prior to any excavation by Licensee within the License Area, whether at the time of the installation of Licensee's Improvements or during subsequent periods or instances of maintenance, Licensee or its Contractor shall contact District and the Underground Service Alert (U.S.A. – 1-800-642-2444) for the purpose of determining the location of underground facilities, equipment and other improvements. Locating all underground improvements shall be Licensee's sole responsibility.

12. Except as otherwise set forth herein, as between Licensee and District the Improvements shall be the property of the Licensee and the Licensee shall have the sole responsibility and liability for said Improvements. Licensee shall at all times maintain, at its own cost and expense, the Improvements. Licensee agrees to assume the sole and exclusive risk for damage to property or injury or death to any persons, arising from, or in anyway related to, the Licensee's maintenance of or failure to maintain the Improvements. The District shall have no duty or obligation to maintain the Improvements.

13. Licensee shall not use, generate, manufacture, store or dispose of on, under or about the License Area, or transport to, from, along or across the License Area, any flammable, explosive or radioactive material, toxic substance, hazardous waste, hazardous material, hazardous substance, or the equivalent, as those terms may now or in the future be defined by common practice or by any federal, state or local statute, ordinance or regulation or any governmental body or agency (hereinafter "Hazardous Substance").

A. Without limiting any remedies District may have, in the event any disposal, release, discharge or spill of a Hazardous Substance or other contamination occurs within the License Area at any time during, or as a result of, Licensee's use of the License Area, except such spills or contamination to the extent directly caused by the sole negligence or willful misconduct of District, Licensee shall immediately notify District and take all action to mitigate the effects of such disposal, release, discharge, spill or contamination. Licensee shall at Licensees' own expense, unless otherwise directed by District, remediate such disposal, release, discharge of spill or contamination to District's satisfaction and in compliance with all applicable laws, rules and regulations. District shall have the option to perform the remediation itself or through any contractor and Licensee shall cooperate with District to complete the remediation and shall reimburse District for all costs and expenses incurred in connection with the remediation.

B. In the event Licensee observes any material Licensee believes or has reason to believe may be a Hazardous Substance or encounters any unknown physical condition of any unusual nature within the License Area, other than disposals, releases, discharges, spills or contamination covered in (A), Licensee shall, without disturbing the condition, immediately cease all use of the License Area and notify District. District shall investigate the condition and take any clean-up or other remedial action District deems necessary in its sole discretion.

C. In the event District or its contractor elects to perform remediation work, Licensee shall upon notice from District, cease use of the License Area as directed in the

notice. District will notify Licensee when the condition has been resolved, at which time, but not before, Licensee may resume its use of the License Area.

D. Licensee agrees to assume liability for and to defend and hold harmless District from and against all injuries or death to any person and damage to any property, and all related expense, including without limitation attorneys' fees, investigators' fees, administrative charges, litigation expenses and any judgements, fines, penalties or other charges assessed against District, resulting from Licensee's failure to comply with this Paragraph and any laws, rules or regulations concerning the subject matter hereof. The provisions of this Paragraph shall survive the expiration and termination of this Agreement.

14. Licensee shall not perform any work within the License Area during any irrigation season which would interfere with the delivery of irrigation water. The parties hereto are mindful of the fact that District's irrigation season ordinarily, but not necessarily, ends late-October and begins mid-March the following year.

15. The District reserves unto itself the right to travel on, over and across the License Area for all District purposes. District will coordinate with License to the extent practicable when District intends to avail itself of such rights in a manner that will cause damage to the License Area.

16. District shall not be liable to Licensee for and Licensee hereby waives and releases District from any and all claims it may now or at any time in the future have against District for any injury or death of any person or damage to any property, whatsoever, including without limitation damage to the Improvements that may result to any person or property arising from or in any way connected with the exercise of rights granted by this Agreement. Licensee's waiver does not extend to intentional or gross negligent acts by the District or its agents.

17. If Licensee's exercise of rights under this Agreement, including the placement, use or maintenance of the Improvements, or any portion thereof, causes damage, injury, impairment or degradation to the License Area, the Improvement, or any property or facilities of District, Licensee shall, at its sole cost and expense, repair said damage, injury or degradation upon notice from the District. Any such repair shall be performed in a timely manner and shall be in strict accordance with plans as acceptable to the District.

18. Licensee shall defend, indemnify and hold District, its directors, officers, agents and employees, and each of them, harmless from and against any and all damages, losses, claims and liabilities arising from any act, omission or negligence of Licensee or Licensee's agents, contractors or employees, or any of them, or arising from any accident, injury or damage whatsoever caused to any person or property, occurring in the exercise of, or in any manner connected directly or indirectly with, the license granted by this Agreement, and from and against all costs, expenses, liabilities and attorneys' fees incurred in, or in connection with, any such claim or proceeding brought thereon.

19. Licensee shall promptly pay District, on demand, full money compensation for any damage to any of the District's property or facilities, or damage to the land, crops, or trees of any irrigator caused by, or in any manner connected directly or indirectly with, the exercise of the license or any rights granted by this Agreement.

20. District acknowledges that Licensee has self-insured its financial obligations imposed by this Agreement; provided, however, that in the event Licensee at any time reduces its General Liability self-insured retention amount below one million dollars, Licensee, at its sole cost and expense, and without limiting any of its other obligations or liabilities, shall obtain and maintain in effect at all times during the performance of the work under this Agreement, coverages and limits of liability insurance reasonable satisfactory to the District, each of which shall be maintained with insurers and under forms of policies reasonably satisfactory to the District and shall include the District as an additional insured.

21. District makes no representation as to, and does not warrant, the condition of the License Area, either at the inception of this Agreement or as to any future point in time. Nothing in this Agreement shall be construed as creating or imposing upon District any duty or obligation to maintain or repair the License Area or the Improvements.

22. This Agreement is made solely for the benefit of Licensee, and it is not made for the benefit of any person, firm, association, corporation or public entity not a party hereto, and no person, firm, association, corporation or public entity other than Licensee shall have any right to enforce this Agreement.

23. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties; provided, however that neither party shall assign its rights or obligations hereunder without the prior written consent of the other party. Any assignment, whether voluntary or involuntary, in violation of this Paragraph shall be void.

24. It is expressly understood and agreed that this Agreement shall operate to give Licensee the rights herein provided for only insofar as District may do so under and by virtue of the rights that District has in that portion of the License Area to which this Agreement applies, and District makes no warranty or representation as to its ownership or land rights in or adjacent to District rights-of-way or the License Area.

25. This Agreement contains all the agreements of the parties hereto and cannot be amended or modified except by a written agreement signed by the parties.

26. All exhibits referred to in this Agreement are attached hereto and incorporated herein by reference.

27. In addition to any right under law or at equity, either party may terminate this Agreement for any reason at any time by giving the other party at least twelve (12) months prior written notice.

28. Any waiver at any time by the District of any of its rights with respect to a breach under this License shall not be deemed a waiver with respect to any subsequent breach or other matter. Any delay in exercising any right hereunder, short of any statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such a right.

29. In the event that the license granted herein is no longer used by Licensee for permitted purposes, the Improvements are no longer used by Licensee for Licensee's purposes, or this license is in any way terminated, all rights granted to Licensee hereunder shall terminate and Licensee, at its expense, shall remove Licensee's Improvements, or take other closure action acceptable to District, and restore the License Area to its original condition or to a condition

acceptable to the District. If Licensee fails to comply with the requirements of this Paragraph, District may undertake and complete such removal and restoration at the sole cost and expense of Licensee. Upon the occurrence of any of the above listed events, all rights granted to Licensee hereunder shall terminate.

30. If any of Licensee's privileges or duties hereunder are to be exercised or performed by any independent contractor or contractors, Licensee shall, effectively and appropriately, bind such contractor or contractors contractually to the duties and obligations of Licensee hereunder. In that connection, Licensee shall, among other requirements, require said contractor or contractors to indemnify and hold District harmless from and against any and all claims, damages, loss, liability and expenses, including court costs and attorney's fees, arising out of or on account of, any injury to or death of any person or persons, or damage to property of any kind whatsoever and to whomsoever belonging, arising out of, or in any manner directly or indirectly connected with, said contractor or contractors acts, omissions or negligence in exercising Licensee's privileges or performing Licensee's duties created by this Agreement. Licensee shall also require said contractor or contractors to maintain sufficient insurance coverages, including general liability insurance covering the indemnity required hereunder.

31. This License shall be governed by the laws of the State of California, excluding any choice of law rules that direct the application of the laws of another jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

EXHIBIT A

LEGAL DESCRIPTION

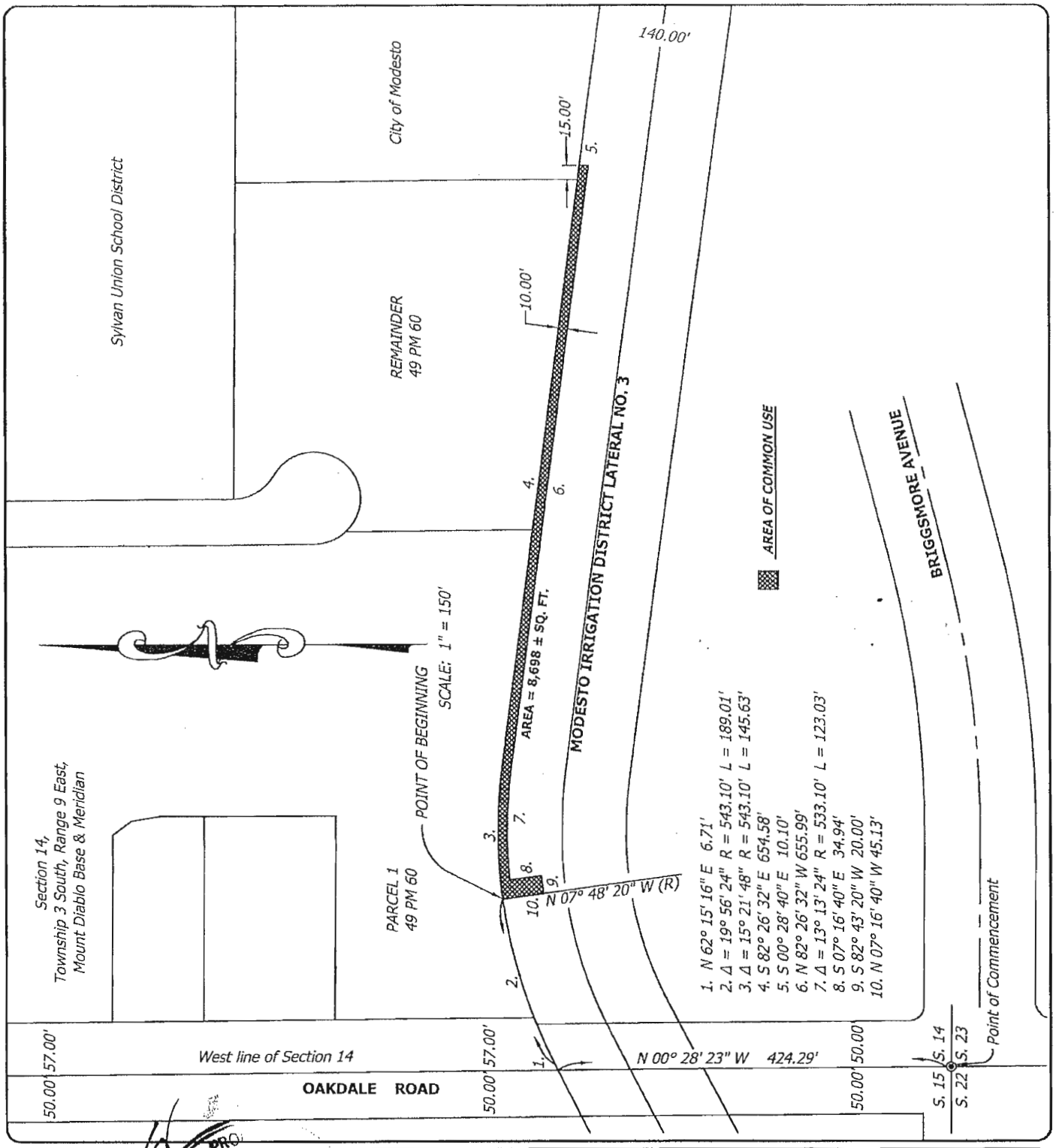
All that certain real property in the southwest quarter of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Commencing at the southwest corner of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence on the west line of said Section 14, North 00° 28' 23" West 424.29 feet to the north line of the 140.00 feet wide Modesto Irrigation District Lateral No. 3; thence on said north line, North 62° 15' 16" East 6.71 feet to the beginning of a curve concave southerly, having a radius of 543.10 feet and a central angle of 19° 56' 24"; thence continuing on the north line of the said Modesto Irrigation District Lateral No. 3, northeasterly on the arc of the aforementioned curve 189.01 feet to the POINT OF BEGINNING of this description; thence continuing easterly on the arc of the aforementioned 543.10 feet radius curve and the southerly line of Parcel 1 as shown on the Parcel Map recorded July 16, 1999 in Book 49 of Parcel Maps, at Page 60, Stanislaus County Records, through a central angle of 15° 21' 48" a distance of 145.63 feet; thence continuing on said north line of Modesto Irrigation District Lateral No. 3, South 82° 26' 32" East 654.58 feet; thence leaving said north line South 00° 28' 40" East 10.10 feet; thence parallel with and 10.00 feet southerly of the aforementioned north line of the 140.00 feet wide Modesto Irrigation District Lateral No. 3, North 82° 26' 32" West 655.99 feet to the beginning of a curve concave southerly having a radius of 533.10 feet and a central angle of

13° 13' 24"; thence westerly on the arc of said curve, parallel with and 10.00 feet southerly of the north line of said Modesto Irrigation District Lateral No. 3, a distance of 123.03 feet; thence South 07° 16' 40" East 34.94 feet; thence South 82° 43' 20" West 20.00 feet; thence North 07° 16' 40" West 45.13 feet to the point of beginning.

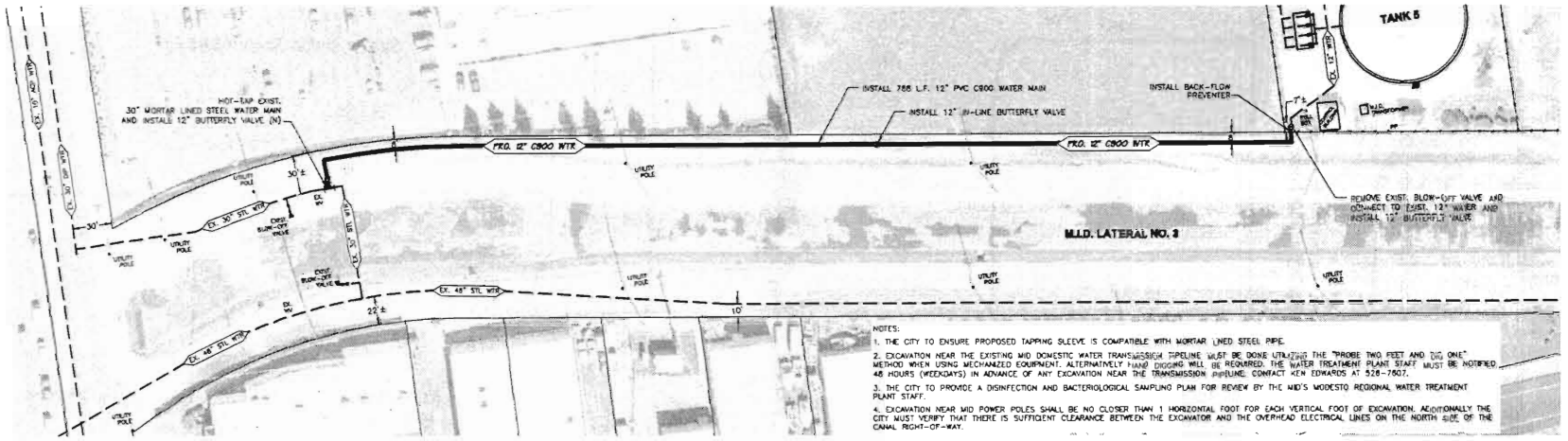
Containing 8,698 square feet, more or less.

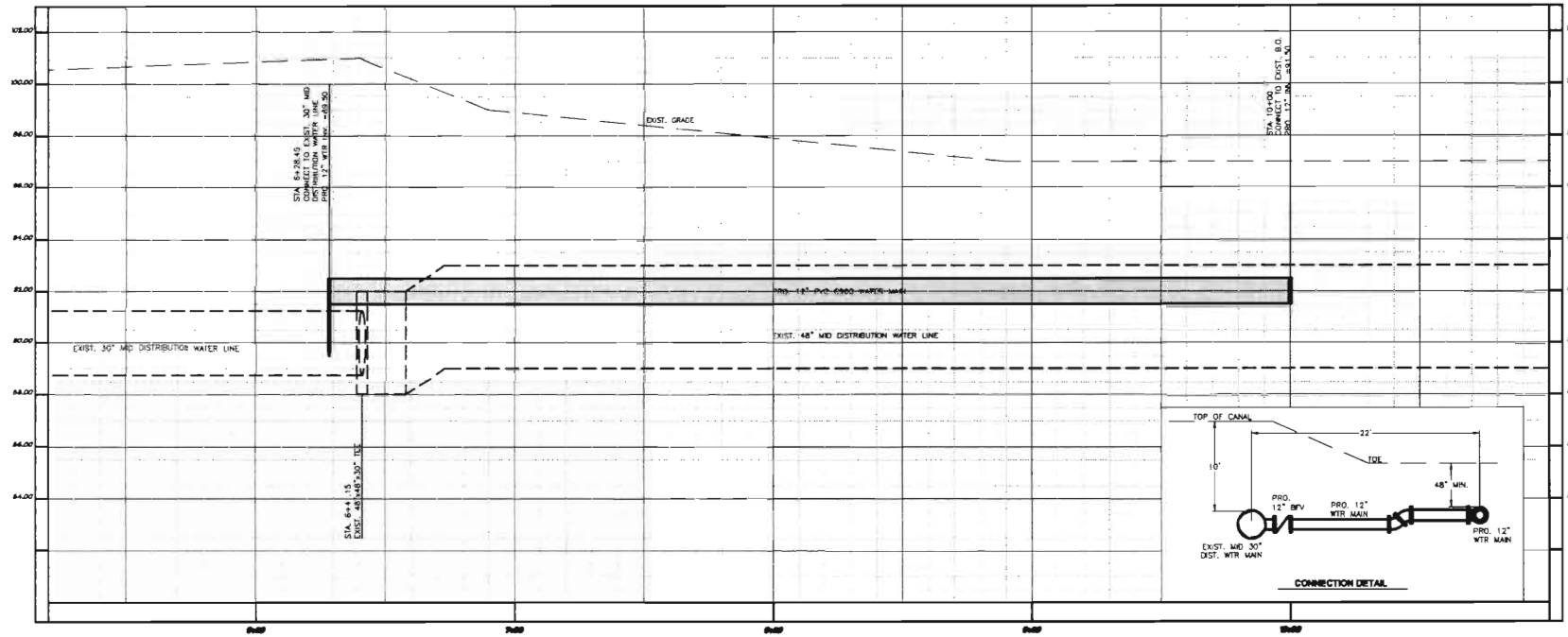
Signed:
5-6-2010



APPROVED BY: DATE: 5-6-10	**EXHIBIT B** **Area of Common Use** Tank 5 Blending Line in the Southwest Quarter of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California	CITY of MODESTO PUBLIC WORKS DEPARTMENT
ASBUILT BY: DATE:		ACTIVITY NO. W387
ASBUILT PLOTTED: DATE:		
REVISED: DATE:		
DATE:10-05-2009 DRAWN BY: Gary Wiseman	CHECKED BY: FIELD BOOK: PAGE:	FILE NO. 4-A-828

REGISTERED PROFESSIONAL ENGINEER VIOLET No. 26879 EXP. 3/31/09 STATE OF CALIFORNIA P.E. EXP. DATE: 3/31/11





DRAWN BY: JRF DATE: 01/06/20
CHECKED BY: DATE:
ASBUILT BY: DATE:
ASBUILT PLOTTED: DATE:
FIELD BOOK: PAGE:
REFERENCE NO.
REVISED: DATE:
APPROVED BY: DATE:

1010 10th STREET
P.O. BOX 642
MODESTO, CA 95353
PHONE: (209) 577-5215
CITY of MODESTO
PUBLIC WORKS DEPARTMENT

EXHIBIT C
TANK 5 - BLEND LINE CONSTRUCTION PLAN
TANK 5 TO M.I.D. DOMESTIC WATER LINE

ACTIVITY NO. 8210-480-W387
PAGE NO. 1 of 1
FILE NO. 08-D-00952

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. 2010-_____, adopted by the Council of the City of Modesto on the _____ day of _____, 2010, and MODESTO IRRIGATION DISTRICT, an irrigation district, has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

MODESTO IRRIGATION DISTRICT
an irrigation district

By _____
ALLEN SHORT, General Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

By _____
Secretary

By _____
Assistant General Counsel

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
ROLAND R. STEVENS, Assistant City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-243

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE AIRPORT IRRIGATION WELL PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH AMERINE SYSTEMS, INC. IN THE AMOUNT OF $119,990 FOR THE AIRPORT IRRIGATION WELL PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Airport Irrigation Well project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Airport Irrigation Well project were opened at 11:00 a.m. on May 4, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $119,990 received from Amerine Systems, Inc. be accepted as the lowest responsible bid and the contract be awarded to Amerine Systems, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Airport Irrigation Well project, accepts the bid of Amerine Systems, Inc. in the amount of $119,990, and awards Amerine Systems, Inc. the contract for the Airport Irrigation Well project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-244

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT FOR THE AIRPORT IRRIGATION WELL PROJECT, INCLUDING CONTINGENCY, CONSTRUCTION ADMINISTRATION, AND ENGINEERING/DESIGN/ADMINISTRATION SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $64,000, in order to fully fund the construction contract, including contingency, construction administration, and engineering/design/administration support by City staff for the Airport Irrigation Well project, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT A

Contact Person: Gail Clement
Telephone No.: 15538
Department: Utility Planning & Projects

Council Action Date: 6/9/10
Resolution Number:

FY: 09-10

Fund Title: Special Aviation Fund
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM					**Airport Irrigation Well**
MY-6320-440-A785-6010	A785	$70,000	($48,641)	$21,359	Eng/Dsgn/Admin
TO					**Airport Irrigation Well**
MY-6320-440-A785-6040	A785	$31,347	$88,643	$119,990	Construction
MY-6320-440-A785-6050	A785	$ -	$11,999	$11,999	Contingency
MY-6320-440-A785-6060	A785	$ -	$11,999	$11,999	Constr Admin
TRANSFERS BETWEEN FUNDS					
FROM					
MY-6330-700-A785-7632	6330G	$101,347	$64,000	$165,347	Trans from 6330 to 6320
TO					
MY-6320-700-A785-9633		$101,347	$64,000	$165,347	Trans from 6330 to 6320

COMMENTS/JUSTIFICATION

This adjustment is to amend the budget by 1) transferring in from County Aircraft Tax Fund 6330 the amount of $64,000 to fund the shortfall of funds for CIP Account A785-Airport Irrigation Well Project to cover required bid items to award construction contract including contingency and construction administration to complete this project, and 2) transferring $48,643 from Object 6010-Engineering/Design/Administration to Object 6040-Construction in CIP Account CIP Account A785-Airport Irrigation Well. There are sufficient funds in the County Aircraft Tax Reserves to cover the costs of the required reappropriation of funds to Objects 6040, 6050 & 6060 necessary for the project.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (UP&P) DJP		5/17/10
DEPARTMENT DIRECTOR (UP&P)		5/17/2010
DEPARTMENT DIRECTOR (Public Works)		5/17/10
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NO. _____

PW: AT w/interfund Template 7/26/06 BY: _____ DATE: _____

Print

AMENDED on Feb. 22, 2011 By Resolution 2011-044

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-245

RESOLUTION APPROVING THE FILING OF AN APPLICATION WITH THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 42.61 ACRES OF PROPERTY LOCATED AT 2706, 2742, AND 2866 KIERNAN AVENUE, AND ADJACENT RIGHT-OF-WAY ON KIERNAN AVENUE/CA-219, TO THE CITY OF MODESTO AND MODESTO MUNICIPAL SEWER DISTRICT NO. 1 (OWNER INITIATED – UNINHABITED) (BENCHMARK ENGINEERING)

WHEREAS, Benchmark Engineering ("Applicant") represents the owners of real property within the Kiernan Business Park Specific Plan area, located at 2706, 2742 and 2866 Kiernan Avenue ("Property"), and

WHEREAS, the City has received a written request from the Applicant to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Resolution of Application is proposed pursuant to California Government Code Sections 56654 and 56700, and

WHEREAS, the Property proposed for annexation is uninhabited as defined by Government Code Section 56046 (fewer than twelve registered voters), and a description of the boundaries of the subject Property is set forth in **Exhibit "A", attached** hereto and by this reference incorporated herein, and

WHEREAS, the subject Property proposed for annexation is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 97-11, on December 19, 1994, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170, on April 9, 1996, and

WHEREAS, the proposed Property includes one Williamson Act contract involving one parcel that on October 7, 1974 was protested by the City, and on March 29, 1978, the protest was upheld by LAFCO, and

WHEREAS, it is desired that the proposed annexation be subject to the following terms and conditions:

1. The annexation of said Property, as set forth on **Exhibits "A" and "B" attached** hereto, to the City of Modesto.

2. The Council's approval by separate resolution of a revenue-sharing agreement between the City of Modesto and the Salida Fire Protection District, to allow both agencies to provide fire and life safety services to the annexation area, in lieu of detachment from the jurisdiction of the Salida Fire Protection District, said revenue-sharing agreement as set forth in **Exhibit "D" attached** hereto and by this reference incorporated herein.

WHEREAS, the reasons for this proposed annexation to the City of Modesto are as follows:

1. Staff has received a written request from the Applicant, to annex the Property to the City of Modesto.

2. The proposed annexation is consistent with the Urban Area General Plan and can be served by City services.

3. The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit "C", attached** hereto and by this reference incorporated herein, and

WHEREAS, on April 19, 2010, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2010-10, recommending to the City Council that they adopt the Resolution of Application for an annexation of the Property to the City of Modesto and Modesto Sewer District No. 1, and

WHEREAS, said matter was set for public hearing of the City Council to be held on June 9, 2010, 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 annexation, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2010-09) 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 Kiernan Business Park Specific Plan Amendment #4 Program EIR, and

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed annexation is consistent with the Modesto Urban Area General Plan, because it is consistent with General Plan Urban Growth Policy II.C.1.b., which states "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy

in City services" and because the development resulting from the proposed and annexation is consistent with the General Plan as amended.

2. The type of project is described in Chapter III of the Kiernan Business Park Specific Plan Amendment #4 Program EIR (Program EIR).

3. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made Conditions of Approval of the project.

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 Program EIR and it has been determined that the project was described in the Program EIR as being within the scope of the Program EIR.

5. Based on the Initial Study, the City of Modesto finds and determines:

    a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 beyond that which was identified in the Program EIR.

    b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2010-09, provides the substantial evidence to support findings 2-5 above.

7. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

8. An agreement between the City of Modesto and the Salida Fire Protection District for the allocation of District revenues, subject to consideration and approval by the City Council, will allow for the joint provision of Fire and Life Safety service to the annexation area.

9. As determined by the Department of Utility Planning and Projects, there is reasonable certainty that the City will have adequate wastewater capacity to serve the proposed annexation based on the following findings:

    a. The Property is in Sewer Tributary Area 1 (Area 1) of the 2007 Wastewater Master Plan (WWMP) from which is served by both the North Trunk and West Trunk sewers. Wastewater collected by the North Trunk flows into the West Trunk. The West Trunk is approximately nine miles long and will convey approximately 35 percent of the City's total average dry weather flow (ADWF) at build-out.

b. There will be future peak wet weather flow (PWWF) capacity deficiencies, as well as rehabilitation and reliability improvements along the West Trunk required to serve build-out of Area 1; however, anticipated sewer flow from this annexation area is not expected to trigger those specific Capital Improvement Projects in the near term. The WWMP states that approximately half of the City's Comprehensive Planning Districts are located in Area 1. Therefore, there will be substantial growth and increased wastewater flows generated from build-out of Area 1. The annexation area is proposed for land uses consistent with those anticipated in the 2007 WWMP, thus no additional Capital Improvement Projects are necessary beyond those already identified to serve the annexation area.

c. The City is planning to implement capacity, new service extensions, rehabilitation, and reliability projects in Area 1. These projects were identified in the 2007 WWMP and were included in the subsequent Sewer Capacity Charge and Sewer Rate Analyses. Therefore, these projects are included in the City's Capital Improvement Program budget.

d. The City has received a new National Pollutant Discharge Elimination System (NPDES) discharge permit for its wastewater treatment plan. The City is on schedule with the design of its Phase 1 tertiary treatment facilities, which will provide additional treatment capacity beyond the Dissolved Air Flotation facilities. The wastewater treatment capacity needed by the Kiernan Business Park Specific Plan area will be available once the City has completed its Phase 1A Tertiary Treatment Project (expected in early 2010).

e. Therefore, the engineering solution and funding is in place to address wastewater collection system capacity for the Kiernan Business Park Specific Plan area, and the treatment capacity and the City's wastewater discharge permit are in place. With respect to timing, the proposed Kiernan Business Park Specific Plan area is compatible with the City's Capital Improvement Project schedule for pipeline and wastewater treatment improvements.

10. The Property is located within Stanislaus County, is within the City's existing Sphere of Influence, and is contiguous to the existing City limits. The proposed annexation will result in planned, orderly and efficient development of the area and the most efficient provision of City services.

11. The Property proposed to be annexed to the City of Modesto is uninhabited as defined by Government Code Section 56046 (fewer than twelve registered voters), and a description of the boundaries of the subject Property is set forth in Exhibits **"A" and "B," attached** hereto and by this reference incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of an Application with the Stanislaus Local Agency Formation Commission to annex approximately 42.61 acres of property located at 2706, 2742 and 2866 Kiernan Avenue, and adjacent right of way on Kiernan Avenue/CA-219, to the City of Modesto and Modesto Municipal Sewer District No. 1.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that in accordance with Section 56663(c) of the Cortese-Knox-Hertzberg Act, the City hereby consents to a waiver of conducting authority proceedings.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City exercise its option not to succeed to the Williamson Act Contract No. 75-1841 pursuant to California Government Code Section 51243.5, and cancel said contract.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in **Exhibit "C", attached** hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Council submit the revenue-sharing agreement between the City of Modesto and the Salida Fire Protection District, upon the Council's consideration and approval of said revenue-sharing agreement, to allow both agencies to provide fire and life safety services to the annexation area in lieu of detachment from the jurisdiction of the Salida Fire Protection District, as set forth in **Exhibit "D", attached** hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that The property owners and developers shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ACALA WOOD, City Attorney

Exhibit "A"

LEGAL DESCRIPTION

All that certain real property in portions of Sections 35 and 36, Township 2 South, Range 8 East and Section 1 Township 3 South, Range 8 East, Mount Diablo Meridian, more particularly described as follows:

Bearings are based on the 1992 adjustment of the California High Precision Geodetic Network, California Coordinate System Zone 3, North American Datum of 1983.

Commencing at the southeast corner of said Section 35; thence coincident with the east line of said Section 35 North 00° 26' 39" West, 94.95 feet to the **POINT OF BEGINNING** of this description; thence leaving said east line South 89° 33' 21" West, 25.00 feet to a point on the general northerly line of the Kaiser-Cornerstone Reorganization to the City of Modesto recorded October 25, 2004 in Document No. 04-0175542-00; thence coincident with said northerly line the following three (3) courses: 1) South 37° 13' 18" West, 57.65 feet, 2) South 86° 09' 08" West, 420.74 feet, 3) South 89° 34' 39" West, 1186.91 feet to a point on the northerly projected west line of Parcel 2 described in the Grant Deed to Malik, recorded April 29, 2003, as Instrument No. 2003-0066261,Official Records of Stanislaus County; thence coincident with said projected west line North 00° 09' 38" West, 150.56 feet to a point on the northerly Right of Way line of Kiernan Avenue, California State Route 219 as described in the Final Order of Condemnation recorded July 29, 2009 as Instrument No. 2009-0075149-00 Official Records of Stanislaus County; thence coincident with said Right of Way line the following two (2) courses: 1) North 89° 32' 54" East, 1528.20 feet, 2) North 80° 27' 29" East, 57.63 feet; thence leaving said line North 89° 22' 34" East, 162.56 feet to a point on the northerly Right of Way of said Kiernan Avenue as described in the Final Order of Condemnation recorded January 16, 2008 as Instrument No. 2008-000-4624-00 Official Records of Stanislaus County; thence coincident with said northerly Right of Way the following two (2) courses 1) South 85° 52' 47" East, 120.44 feet; 2) North 89° 32' 54" East, 456.13 feet to a point on the east line of Parcel A as shown on the map recorded April 10, 2000 in Volume 50 of Parcel Maps at Page 10, Stanislaus County Records; thence continuing coincident with said northerly Right of Way as described in the Grant Deed to the State of California recorded March 17, 2008 as Document No. 2008-0026745-00, North 89°32' 54" East, 568.65 feet; thence continuing coincident with said northerly Right of Way as described in the Grant Deed to the State of California recorded May 11, 2007 as Document No. 2007-0060146-00 the

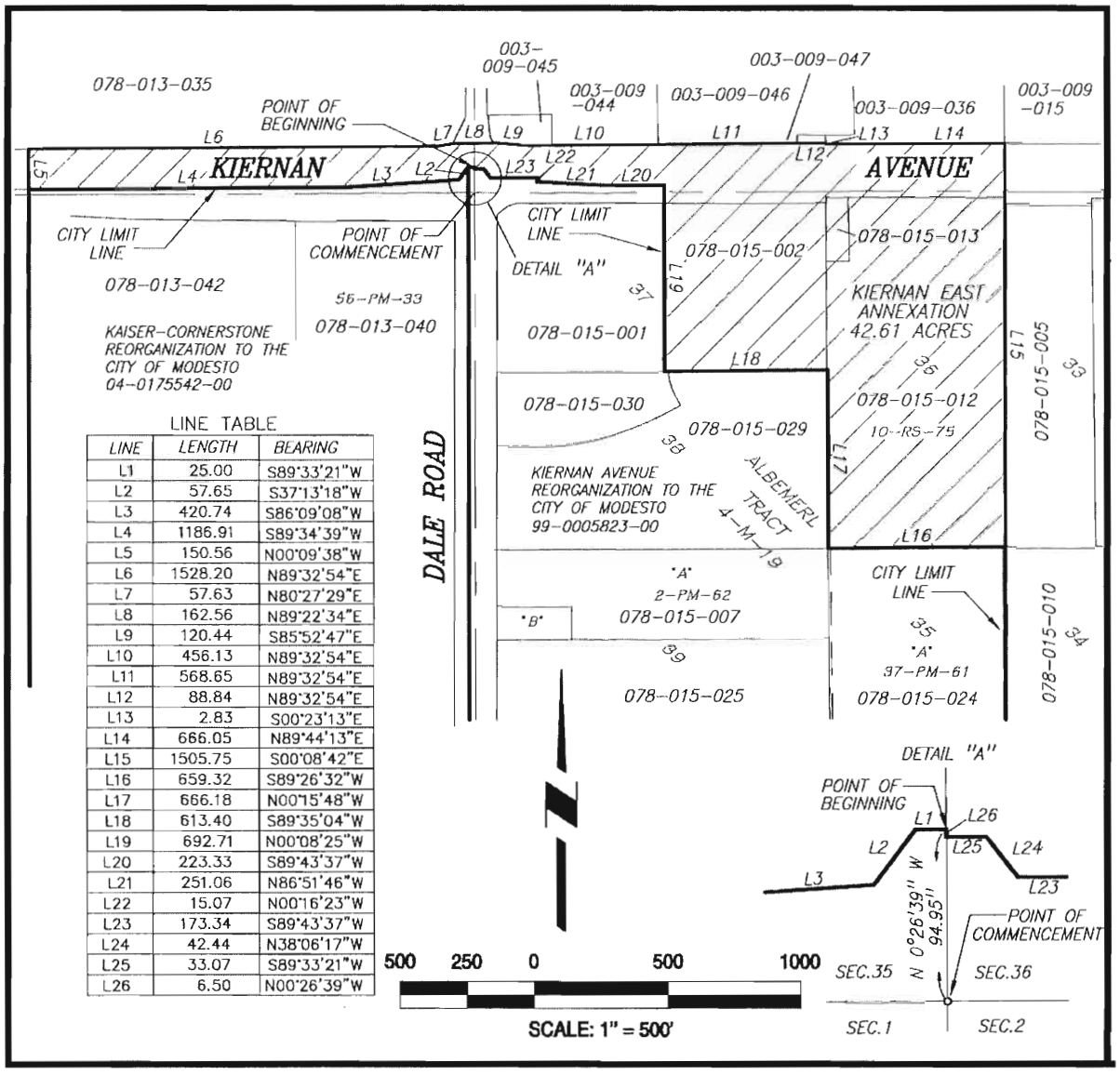
following two (2) courses: 1) North 89°32' 54" East, 88.84 feet, 2) South 00° 23' 13" East, 2.83 feet; thence continuing coincident with said northerly Right of Way as described in the Final Order of Condemnation recorded December 18 as Document No. 2008-0132471 Official Records of Stanislaus County, North 89° 44' 13" East, 666.05 feet; to a point on the northerly projected east line of Lot 36 as shown on the map of the Albemerl Tract recorded in Book 4 of Maps at Page 19, Stanislaus County records; thence coincident with said east line South 00° 08' 42" East, 1505.75 feet to the northeast corner of Parcel B as shown on the map recorded in Volume 37 of Parcel Maps at Page 61 Stanislaus County records, said corner also being an angle point in the easterly line of the Kiernan Avenue Reorganization to the City of Modesto recorded January 20, 1999 as Instrument No. 99-0005823-00, Official Records of Stanislaus County; thence coincident with the said line of the Kiernan Avenue Reorganization the following ten (10) courses: 1) South 89° 26' 32" West, 659.32 feet, 2) North 00° 15' 48" West, 666.18 feet, 3) South 89° 35' 04" West, 613.40 feet, 4) North 00° 08' 25" West, 692.71 feet, 5) South 89° 43' 37" West, 223.33 feet, 6) North 86° 51' 46" West, 251.06 feet, 7) North 00° 16' 23" West, 15.07 feet, 8) South 89° 43' 37" West, 173.34 feet, 9) North 38° 06' 17" West, 42.44 feet, 10) South 89° 33' 21" West, 33.07 feet to a point on the east line of said Section 35; thence coincident with said east line North 00° 26' 39" West, 6.50 feet to the **POINT OF BEGINNING**.

Containing 42.61 Acres, more or less.

James S. Conti
PLS 8001
04/16/2010

Exhibit "B"

ANNEXATION PROPOSAL MAP



LINE TABLE

LINE	LENGTH	BEARING
L1	25.00	S89°33'21"W
L2	57.65	S37°13'18"W
L3	420.74	S86°09'08"W
L4	1186.91	S89°34'39"W
L5	150.56	N00°09'38"W
L6	1528.20	N89°32'54"E
L7	57.63	N80°27'29"E
L8	162.56	N89°22'34"E
L9	120.44	S85°52'47"E
L10	456.13	N89°32'54"E
L11	568.65	N89°32'54"E
L12	88.84	N89°32'54"E
L13	2.83	S00°23'13"E
L14	666.05	N89°44'13"E
L15	1505.75	S00°08'42"E
L16	659.32	S89°26'32"W
L17	666.18	N00°15'48"W
L18	613.40	S89°35'04"W
L19	692.71	N00°08'25"W
L20	223.33	S89°43'37"W
L21	251.06	N86°51'46"W
L22	15.07	N00°16'23"W
L23	173.34	S89°43'37"W
L24	42.44	N38°06'17"W
L25	33.07	S89°33'21"W
L26	6.50	N00°26'39"W

Exhibit "C"

KIERNAN BUSINESS PARK EAST ANNEXATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Kiernan Business Park East Annexation.

Project area and service requirements

The project site is comprised of three parcels in addition to adjacent right of way of Kiernan Avenue/CA-219, and is part of the Planned Urbanizing Area as described in the Modesto Urban Area General Plan, adopted August 15, 1999 and subsequently amended. As part of the approval, community facilities and services were analyzed in detail in the Environmental Impact Report (EIR) for the Kiernan Business Park East Specific Plan Amendment No. 4 (SPA) Project (SCH 2007062071). Additionally, the Kiernan Business Park East Facilities Master Plan (FMP), approved with the SPA, defines the public facilities required to service development within the Specific Plan area in accordance to City Standards. These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. Traffic and Circulation: The project site is bounded to the north by Kiernan Avenue/CA-219, approximately 700 feet east of the intersection of Kiernan Avenue/CA-219 and Dale Road and approximately 650 feet west of the intersection of Kiernan Avenue/CA-219 and American Avenue. The annexation area also includes adjacent right-of-way of Kiernan Avenue/CA-219 from the property frontages to the northwest corner of the previously annexed Kaiser-Cornerstone Reorganization Area. The dedication and construction of roadway improvements along the Kiernan Avenue/CA-219 corridor are identified as Mitigation Measures of the EIR; however, the Kiernan Avenue/CA-219 improvements are to be completed by the City of Modesto and CalTrans. The project developers shall be responsible for the dedication and construction of new roadways to serve the project as outlined in the Proposed Circulation Plan of the EIR [Figure III.7] and detailed in the FMP.

2. Waste Water Collection: Upon annexation, the project site will annex to Modesto's Sewer District No. 1, which is served by the West Trunk line under American Avenue south of Bangs Ave, and the North Trunk line under Bangs Avenue from Dale Road to Carver Road. In 2007 the City approved the Wastewater Master Plan Update, which identified necessary improvements to existing wastewater facilities and construction of new wastewater facilities, including rehabilitation and reliability improvements to the West Trunk. The project site is proposed for land uses consistent with those anticipated in the 2007 Wastewater Master Plan Update, and no additional capital improvement projects are needed beyond those already identified to serve the annexation area. The FMP identifies sewer

improvements to consist of 10- and 12-inch diameter lines that will flow from the project area to the North and West Trunk, the installation of which are to be the responsibility of the project developers. All improvements will be provided according to City Standards.

3. Water Delivery: Water service will be provided to the project as identified in the Mitigation Measures of the EIR and the FMP. Project area improvements shall be funded and installed by the project developers. The City shall construct localized system improvements with the project developer paying fair share of localized system improvements through payment of water fees.

4. Storm Water Drainage: All stormwater drainage for the project site must be contained on site. Prior to approval of development plans for all new development on the project site, the City must approve stormwater drainage plans to ensure their adequacy.

5. Solid Waste Disposal: Weekly pick-up of solid waste will be extended to the project area upon the effective date of annexation.

6. Fire Protection: Instead of detachment from the jurisdiction of the Salida Fire Protection District, the City and District propose to enter into a cost-sharing agreement that would allow for both agencies to provide fire and life safety services to the annexation area. Under this agreement, the annexation area is to be served by the closest available Fire and Life Safety resource. City of Modesto Fire Station No. 11 is located at 4225 Carver Road, approximately two miles southeast of the annexation area, and Salida Fire Protection District Station No.1 is located at 4820 Salida Boulevard, approximately two miles west of the annexation area. This cost-sharing agreement is to be considered by the City Council and LAFCO with the proposed annexation.

7. Police Protection: The City of Modesto Police Department will serve the area. The project site is located adjacent to Patrol Area 65 in the City's northwestern area of command.

1 Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

2 When can services be provided?

The above services can be provided upon the effective date of annexation.

3 Improvements required as a condition of annexation

No improvements are required as a condition of annexation. The following improvements will be required as a condition of development:

- Prior to issuance of a building permit at the project site, the project developers shall provide for roadway, sewer, water and stormwater improvements as

identified in the Mitigation Measures of the EIR and the FMP, to the satisfaction of the City Engineer.

4 How will services be financed?

Services will be financed through City fees and Capital Facilities Fees provided by project developers. Additionally, a Community Facilities District (CFD) is to be formed for the overall Kiernan Business Park East, which will provide additional funding for localized improvements.

Exhibit "D"

AGREEMENT BETWEEN THE CITY OF MODESTO AND THE SALIDA FIRE PROTECTION DISTRICT FOR THE ALLOCATION OF DISTRICT REVENUE RESULTING FROM THE ANNEXATION OF PROPERTY WITHIN THE KIERNAN BUSINESS PARK TO THE CITY

This agreement ("Agreement") is entered into by and between the City of Modesto ("CITY") and the Salida Fire Protection District ("DISTRICT"), a California special district organized and governed by the Fire Protection Law of 1987 (California Health & Safety Code Section 13800, et seq.).

RECITALS

This Agreement is made with reference to the following facts:

A. DISTRICT is responsible for fire suppression and prevention within the territory governed by this Agreement and receives the District Revenue generated within the DISTRICT boundaries;

B. CITY and DISTRICT desire to enter into this Agreement to allocate District Revenues in the event of Annexation of the territory covered by this Agreement to the CITY.

C. CITY and DISTRICT agree it is in the best interest of the area subject to annexation that it receives fire and life safety services jointly from CITY and DISTRICT.

D. CITY and DISTRICT agree it is the intent of both parties, and in the overall public interest, to ensure both agencies receive sufficient District Revenues to provide adequate levels of fire and emergency services within the affected Territory and are able to provide assistance to other fire protection agencies in a cooperative manner; and

E. It is agreed that an equitable sharing of future District Revenue from the Affected Territory will benefit the overall organization of fire protection agencies and their cooperative ability to provide adequate emergency services.

NOW THEREFORE the CITY and DISTRICT hereby agree as follows:

1. Effect of Recitals.

   The foregoing recitals set forth the intent of the CITY and DISTRICT in entering into this Agreement.

2. Definitions.

2.1 "Affected Territory" means that territory defined in the Kiernan Business Specific Plan Amendment #4 for which a change of organization or reorganization is proposed or ordered. The Affected Territory includes APN Nos. 078-015-002, 078-015-012, and 078-005-013. Gov't Code section 56033. Gov't Code section 56015.

2.2 "Annexation" means the annexation, inclusion, attachment, or addition of territory to a city or district. Gov't Code section 56017.

2.3 "Detachment" means the detachment, deannexation, exclusion, deletion, or removal of any portion of the territory of that city or district. Gov't Code section 56033.

2.4 "Change of Organization" means an Annexation to, or detachment from a city or district. Gov't Code section 56021.

2.5 "District Revenues" shall mean any allocation of the property tax due the District from the Affected Territory. It shall also include any District special tax as authorized by Health & Safety Code Section 13911, any District special tax as authorized by Health & Safety Code Section 13912, any District special tax for fire protection as authorized by Health & Safety Code Section 13913, any District assessment for fire suppression service as authorized by Health & Safety Code Section 13914, and District assessments to finance capital improvements as authorized by Health & Safety Code Section 13915 and any fee authorized by Health & Safety Code Section 13916 for services of the District levied on an interested party and other public agency, except the City. District Revenues shall not include grants, gifts, bequests or litigation or insurance recoveries.

2.6 "Effective Date" means the date at which the Change of Organization becomes effective. This is the date the Change of Organization is recorded by the Stanislaus LAFCO staff, unless a different Effective Date is set forth in the LAFCO resolution approving the Change of Organization.

2.7 "Fiscal Year" means July 1 of any given year – June 30 of the next year utilized for property tax purposes.

2.8 Upon the Effective Date of the Annexation of the Affected Territory to the CITY, the amount of District Revenue generated from the affected territory in the

calendar year in which the Effective Date occurs shall be designated as the "Base District Revenue".

3. Effect of Annexation on Affected Territory.

Upon the annexation of Affected Territory to the CITY, the CITY and DISTRICT will jointly be responsible for fire suppression and prevention within the Affected Territory. The Affected Territory will not be Detached from the DISTRICT.

4. Allocation of District Revenue to CITY.

Beginning in the Calendar Year following the calendar year in which Effective Date the District Revenue attributable to DISTRICT from the Affected Territory shall be reapportioned as follows:

The District shall retain the Base District Revenue for the entire calendar year in which the Effective Date falls. This will likely result in City providing joint fire and life safety services with District in the Affected Territory for a period of several months until District Revenues are received in the normal course of business during the first Fiscal Year after the Effective Date. In the first Fiscal Year following the Effective Date, and in each Fiscal Year thereafter, City shall receive 100% of District Revenues actually received by District in excess of the Base District Revenue. In the first Fiscal Year after the Effective Date in which District Revenues exceed two times the Base District Revenue, and in each Fiscal Year thereafter, the amount of District Revenue actually received by District in excess of two times Base District Revenue shall be split evenly between District and City. The parties intend that all District Revenues will ultimately be split equally between them.

5. Annual Transfer of Funds From DISTRICT to CITY.

In the next Fiscal Year following the Effective Date and in each Fiscal Year thereafter, the DISTRICT shall transfer to CITY, within 60 days of receiving its District Revenue allocations from the County, the amount of District Revenue owed to City in accordance with Section 4 above.

6. Support for Annexation to the City.

DISTRICT agrees not to oppose or attempt to frustrate the Annexation of the Affected Territory to the CITY and CITY agrees to not request Detachment of the Affected Territory from the DISTRICT, in any Change of Organization proceeding before LAFCO.

7. Assurances on Use of Revenue.

CITY recognizes that District Revenues transferred to it by this Agreement could have been appropriated by DISTRICT to meet public safety service demands. CITY agrees to utilize District Revenues to maintain levels of service in the Affected Territory equal to or greater than levels of service provided by CITY elsewhere. City agrees to ensure funds it receives pursuant to this Agreement will be available to benefit the Affected Territory under mutual aid or other cooperative agreements.

8. No Restriction on District or City Discretion.

Nothing in this Agreement is intended or shall be construed to limit or restrain DISTRICT or CITY discretion to make budgetary, legislative or staffing decisions regarding levels of service that it deems necessary for overall safety and welfare of the Affected Territory.

9. Term of Agreement and Termination.

The Agreement shall become effective on the date that it becomes approved by both CITY and DISTRICT. It shall terminate only upon the mutual agreement of the parties.

10. Renegotiation Due to Change in Law.

In entering into this Agreement, the parties mutually assume the continuation of the existing statutory scheme for the allocation and distribution of available District Revenue to local government. Accordingly, it is mutually understood and agreed that should changes in law occur that materially affect the terms of this Agreement the parties shall meet to attempt to resolve any difficulties that are thereby created. "Materially Effect" as used in this Agreement shall include but not be limited to a decrease in District Revenue of five percent (5%) in any single Fiscal Year and only applies to a change in law, not a change in the facts serving as the basis for this Agreement. Any party contending this section applies shall give written notice pursuant to this section, which notice shall include an

explanation of the reasons for the request to meet and attempt to resolve any claim of Material Effect.

11. Modification.

This Agreement may be modified or amended only by a writing duly authorized and executed by CITY and DISTRICT.

12. Administrative and Ministerial Action.

City and District will insofar as is legally possible, fully carry out the intent and purposes hereof, if necessary, by administrative and ministerial action independent of their legislative power.

13. Integration.

This Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations, proposals, commitments, writings and understandings of any nature whatsoever between CITY and DISTRICT as to the subject matter of this Agreement.

14. Notice.

All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by certified mail or by facsimile transmission at the following addresses:

City Manager
City of Modesto
1010 10th Street
Suite 6100
Modesto, CA 95354

Fire Chief
Salida Fire Protection District
P.O. Box 1335
4820 Salida Boulevard
Salida, CA 95368

Fire Chief
Modesto Fire Department
600 11th Street
Modesto, CA 95354

15. Dispute Resolution.

Any dispute arising out of or relating to the interpretation or application of this Agreement, or any District Revenue or Base District Revenue calculation hereunder shall be submitted to the respective Fire Chiefs of City and District for resolution. If the dispute is not resolved there, it maybe submitted to mediation upon mutual agreement of City and District. In the event the dispute is not settled by the Fire Chiefs and/or in mediation, within six months after one party gives the other party notice in accordance with this Agreement of the dispute, the matter shall be submitted to final and binding arbitration before one arbitrator in Modesto. The arbitrator will be chosen from a panel of three proposed by the American Arbitration Association by alternate strikes. Arbitration may be requested by either party.

This Agreement to arbitrate shall be specifically enforceable under the jurisdiction of the Superior Court of the State of California in Stanislaus County, but any award rendered by the arbitrator may be entered in any court having jurisdiction. This section shall result in the conclusive, final and binding resolution of arbitrable claims between the parties. Arbitration shall proceed according to the "fast track" rules of the American Arbitration Association then in effect. District and City shall have the right to take no more than three (3) depositions apiece as a matter of right, without regard to the "fast track" rules. The arbitrator shall apply the substantive law of California.

The arbitrator may grant any remedy or relief deemed by the arbitrator just and equitable under the circumstances, whether or not such relief could be awarded in a court of law. The arbitrator shall be empowered to award monetary sanctions against a party for failure of cooperation in the arbitration. The arbitrator shall, in written award, allocate all the costs of the arbitration, including fees of the arbitrator and the reasonable attorney fees of the prevailing party, against the party who did not prevail. The prevailing party shall be the party in whose favor the majority of the central issues in the case are resolved.

Notwithstanding anything in this provision to the contrary, the arbitrator shall have no power to award punitive damages or other damages not measured by the party's actual damages (excluding litigation costs and fees) against any party.

This limitation of the arbitrator's powers under this Agreement shall not operate as an exclusion of the issue of punitive damages from this Agreement to Arbitrate sufficient to vest jurisdiction in a court with respect to that issue.

The parties hereby waive any rights provided by Title 9.2 of the California Code of Civil Procedure, Section 1296. The arbitrator's award shall be deemed final, conclusive and binding to the fullest extent allowed by California law.

16. Assignment.

This Agreement and its terms and conditions shall be binding upon and inure to the benefit of the parties to this Agreement and their respective administrators. This Agreement may not be assigned by either party without written consent of the other party.

17. Governing Law.

This Agreement shall be governed by the laws of the State of California without reference to its choice of law jurisprudence.

18. Severability.

If any provision of this Agreement, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severed from the remainder of the Agreement and shall not in any way impair the enforceability of any other provision of this Agreement.

19. Compliance with Applicable Law.

In providing the services required by this Agreement, CITY and DISTRICT shall observe and comply with all applicable federal, state and local laws, ordinances, codes and regulations.

20. Authority to Contract.

CITY and DISTRICT each warrant that they are respectively legally permitted and otherwise have the authority to enter into this Agreement and perform their respective obligations.

21. Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create any such rights.

22. No Party Deemed to be Draftsman.

The parties acknowledge and agree that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654.

23. Counterparts.

This Agreement may be executed in multiple counterparts, which may be transmitted by facsimile, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

24. Indemnity.

City agrees to indemnify, defend and hold District harmless with respect to City's negligence or other wrongful acts arising out of or relating to City's performance of it's fire and/or life safety services pursuant to this Agreement without regard to the availability of insurance coverage.

District agrees to indemnify, defend and hold City harmless with respect to District's negligence or other wrongful acts arising out of or relating to District's performance of it's fire and/or life safety services pursuant to this Agreement without regard to the availability of insurance coverage.

25. Additional Insured Requirement.

District and City shall each cause the other to be included as an additional insured to their insurance policies offering or potentially offering coverage for fire and/or life safety services.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date set forth below.

SALIDA FIRE PROTECTION DISTRICT

By: _____
Tom Burns
Chairman of the Board of Directors

Dated: _____, 2010

APPROVED AS TO FORM:

By: _____
William D. Ross
District Counsel

Dated: _____, 2010

CITY OF MODESTO

By: _____
GREG NYHOFF, City Manager

Dated: _____, 2010

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood
Modesto City Attorney

Dated: _____, 2010

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-246

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007062071): KIERNAN BUSINESS PARK EAST ANNEXATION

WHEREAS, on September 1, 2009, by Resolution No. 2009-418, the City Council of the City of Modesto certified the Kiernan Business Park Specific Plan Amendment #4 Program Environmental Impact Report ("Program EIR") (SCH No. 2007062071) for the Kiernan Business Park Specific Plan Amendment #4, and

WHEREAS, Benchmark Engineering has proposed the annexation of three properties within the Kieran Business Park Specific Plan, located at 2706, 2742, and 2866 Kiernan Avenue, and adjacent right-of way on Kiernan Avenue/CA-219, 42.61 acres total, to the City of Modesto and Modesto Municipal Sewer District #1, 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 2010-09 ("Initial Study") reviewed the proposed annexation to determine whether the project is within the scope of the project covered by the Kiernan Business Park Specific Plan Amendment #4 Program EIR ("Program EIR"), and concluded that the proposed project is within the scope of the

Program EIR and will have no additional significant effect on the environment that was not identified in the Program 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 Program EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on Wednesday, May 20, 2010, 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 Program EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on June 9, 2010, 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 annexation, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Program EIR (SCH No. 2007062071) as being within the scope of the Program EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Program EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-09

City of Modesto

Determination:
Project within the Scope of the
Kiernan Business Park Specific Plan Amendment #4
Program Environmental Impact Report (SCH# 2007062071)
for the Proposed:

Kiernan Business Park East Annexation

(Benchmark Engineering, Applicant)

Prepared by:

City of Modesto
Community & Economic Development Department
Planning Division

March 9, 2010

WRITTEN CHECKLIST

EA/C&ED No. 2010-09

I. Purpose

This written checklist is prepared pursuant to Section 15168(c) of the CEQA Guidelines, which provides for subsequent activities to be examined in the light of a Program EIR to determine whether an additional environmental document must be prepared. If subsequent activities are determined to be within the scope of a Program EIR, no new environmental document is required. Activities are deemed to be within the scope of a Program EIR when the agency finds that, on the basis of the criteria provided by Section 15162, no new effects could occur or no new mitigation measures would be required as a result of implementation of the activity.

II. Program EIR Information

Program Name: Kiernan Business Park Specific Plan Amendment #4

Program Boundaries: The 153-acre area is bounded on the north by Kiernan Avenue, on the west by Dale Road, on the south by Bangs Avenue, and on the east by a line extending south from American Avenue and parallel to Dale Road

Program Description: This program includes the following components, as listed on page II.2 of the EIR:

- Adoption of Kiernan Business Park Specific Plan amendments. Proposed amendments would amend the Land Use Plan Diagram to show the change in land use designation from BP to MU and MHDR; would amend the Circulation Plan Diagram to reflect changes to the planned roads and to show new roads; would amend the Bike Paths Figure to reflect changes to the planned bicycle facilities and to show new bicycle facilities; would amend the Illustrative Public Facilities Diagram to reflect changes to the planned water, storm, and sanitary sewer pipeline alignments and to show new water, storm, and sanitary sewer pipelines; would introduce a Street Cross Section Diagram for Healthcare Way, The Plaza Way, and Chopra Parkway; would amend the text of the Land Use chapter of the Specific Plan to include project-specific Development Standards and Design Guidelines; and would amend the text of the Circulation and Access and Public Facilities chapters of the Specific Plan to reflect the proposed changes.
- Adoption of an amendment to the Urban Area General Plan. The proposed amendment would redesignate the 39-acre area proposed to be modified in the Specific Plan of the Kiernan/Carver Comprehensive Planning District (CPD) of the General Plan from BP to MU.
- Approval of a Development Agreement, if applicable.

- Approval of a Tentative Subdivision Map and/or tentative parcel map, if applicable.
- Adoption of a resolution initiating annexation of a 67-acre portion of the project site.
- Adoption of a resolution to approve rezoning.
- Adoption of a Facilities Master Plan and an Infrastructure Financing Plan.
- Formation of a Community Facilities District.
- Approval by the Local Agency Formation Commission (LAFCO). LAFCO will review reorganization of the amended Kiernan Business Park Specific Plan, including the annexation of the 67-acre portion of the 153-acre project site to the City of Modesto and the Modesto Municipal Sanitary Sewer District No. 1, and simultaneously detach this portion of the project site from the Salida Fire Protection District.
- Approval by MID. MID must review the proposed storm water drainage system, which proposes discharge to MID Lateral No. 6. Upon acceptance of the proposed storm water drainage system, MID would enter into a Drainage Agreement with the City.

Program Certification Date: September 1, 2009

State Clearinghouse Number: 2007062071

III. Project Information

Project Name: Kiernan Business Park East Annexation

Project Location: Three parcels located at 2706, 2742, and 2866 Kiernan Avenue, east of Dale Road and southwest of the intersection of Kiernan Avenue and American Avenue (APNs 078-015-002, -012, and -013)

Project Description: Application to annex the above properties comprised of approximately 30.11 acres, plus adjacent right of way along Kiernan Avenue/CA-219, 39 acres total, to the City of Modesto, Modesto Sewer District No. 1, with cost-sharing agreement between the City of Modesto Fire Department and the Salida Fire Protection District in lieu of detachment from the Salida Fire District. The proposed annexation area is a segment of a 67-acre portion of the Kiernan Business Park Specific Plan area not yet annexed to the City, described on Page III.5 of the Kiernan Business Park Specific Plan Amendment #4 Program EIR. No new development is proposed with the application for annexation. All future development shall be by separate application and be analyzed for conformance to the Kiernan Business Park Specific Plan and the Kiernan Business Park Specific Plan Amendment #4 Program EIR.

General Plan Designation: BP

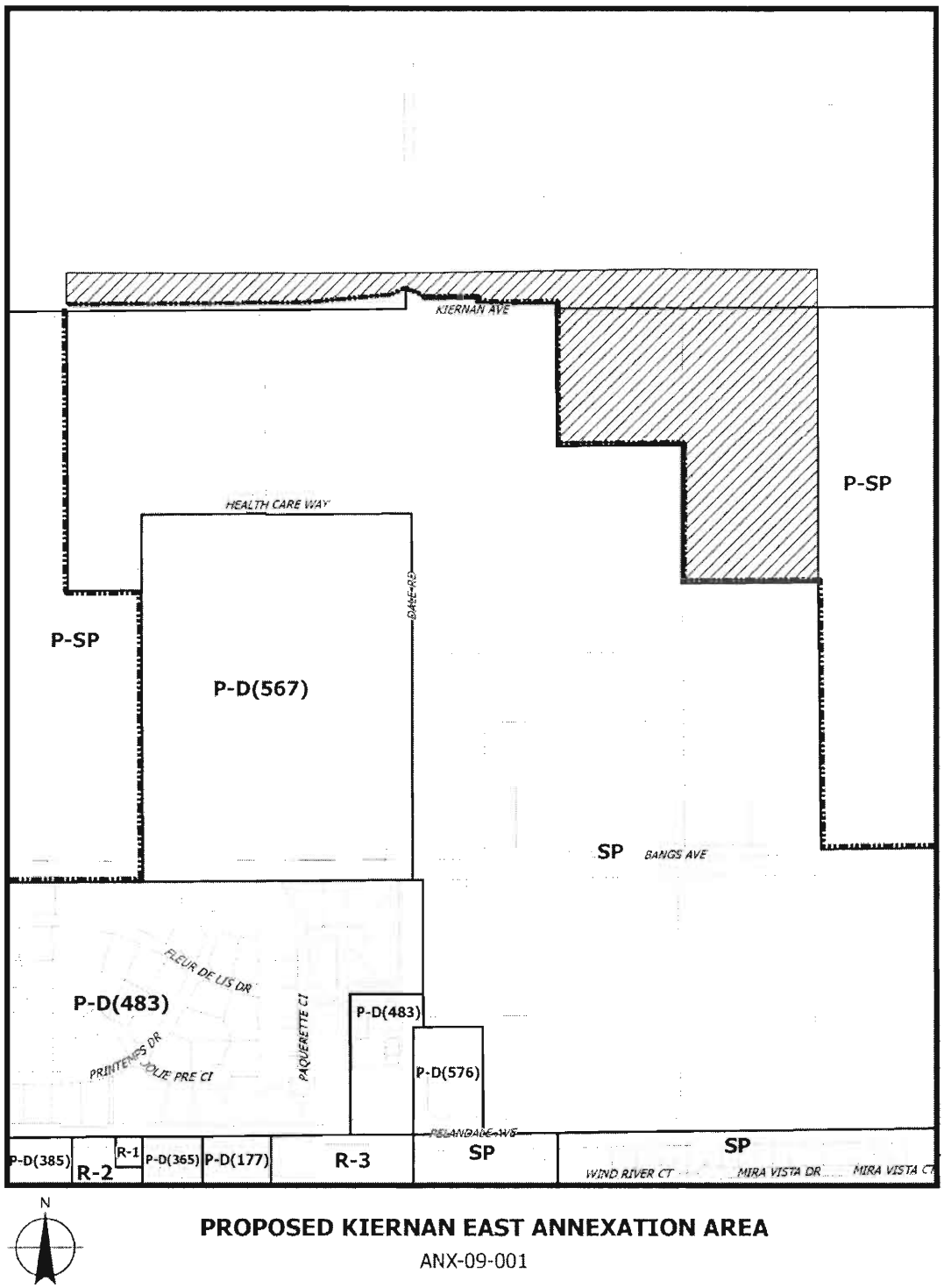
Zoning: Pre-Specific Plan (P-SP)

Lead Agency: City of Modesto, 1010 Tenth St., Modesto, CA. 95354

Contact Person: Katharine Martin, 209-577-5465

Project Applciant: Benchmark Engineering, 213 Sierra Ave., Oakdale, CA 95361

Other Public Agencies whose Approval is Required: None



PROPOSED KIERNAN EAST ANNEXATION AREA

ANX-09-001

IV. Determination:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15168(c) the following is true for the proposed project:

1. There are no substantial changes proposed in the application for annexation which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the proposed annexation is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment #4 EIR, or

   b. significant effects which were previously examined will be substantially more severe than previously shown, or

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2010-09, provides the substantial evidence to support findings 1-3, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

Original signed copy on file with CEDD

_____ _____

Project Manager Date

V. PROJECT EVALUATION:

The following written Checklist serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Kiernan Business Park Specific Plan Amendment #4 Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a.	Have a substantial adverse effect on a scenic vista?				X
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?				X
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?				X

Aesthetic and visual impacts are analyzed on pages 21 through 25 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that there are no identified scenic vistas or scenic resources on or within the vicinity of the project site. Approval of the proposed 39-acre annexation would not impact scenic views from public open spaces or other sites accessible to the general public, nor substantially damage scenic resources. No mitigation is required.

c. The Kiernan Business Park Specific Plan Amendment #4 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 annexation would not change the design or layout of the development proposed within the Kiernan Business Park Specific Plan.

d. Future business park development within the annexation area would create new sources of nighttime light. The Design Guidelines of the Kiernan Business Park

Specific Plan would require measures such as shielding and landscaping to reduce the impact to a less-than-significant level.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
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?				X
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?				X
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?				X

Impacts on agricultural resources are analyzed on pages IV.B.6 through IV.B.10 of the EIR certified in 2008.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that land designated as Prime Farmland would be lost as a result of development in the project area. This impact was determined to be significant and unavoidable. The City of Modesto adopted a statement of overriding consideration for this impact. A mitigation measure was provided but would not mitigate the loss of Prime Farmland to less-than-significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR identified one parcel subject to a Williamson Act contract in the proposed annexation area. However, the contract was protested by the City on October 7, 1974, and on March 29, 1978 the protest was upheld by LAFCO. The property owner filed for Non-Renewal in August of 2004. The City does not intend to succeed the contract

and so it will be terminated in conjunction with annexation. The project area has been pre-zoned for consistency with the specific plan, and no lands in the proposed annexation area are zoned for agricultural use.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the conversion of Prime Farmland to new business park, residential, and commercial uses. The Program EIR identified the project would not hinder the continued use of the agricultural lands to the north and east of the project site. Therefore, the project's impacts on surrounding ongoing agricultural operations would be considered less-than-significant.

The proposed annexation area is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Agricultural Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a. Conflict with or obstruct implementation of the applicable air quality plan?				X
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
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)?				X
d. Expose sensitive receptors to substantial pollutant concentrations?				X
e. Create objectionable odors affecting a substantial number of people?				X

Impacts on air quality are analyzed on pages IV.D.26 through IV.D.43 of the EIR certified in 2008.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that air pollution from project-related construction and during project operation would contribute to existing violations of ambient air quality standards. The impacts were determined to be significant and unavoidable. Partial mitigation for these impacts is included in the Program EIR, and the City of Modesto adopted a statement of overriding consideration for each impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the project would cause a cumulatively considerable net increase of pollutants in the San Joaquin Valley is designated as nonattainment. Project related emissions would cumulatively increase mobile source activity and associated regional emissions of ROG, NOx and PM 10. The impacts were determined to be significant and unavoidable. Partial mitigation for these emissions is included in the Program EIR, and the City of Modesto made a statement of overriding consideration for each impact.

d. The proposed annexation area carries the land use designation of BP (Business Park), for which only Business Park uses would be permitted as allowed by the Kiernan Business Park Specific Plan and Section 10-2.1602 of the City's Municipal Code upon annexation to the City. These uses would not generate substantial TAC emissions that would affect sensitive receptors. The Kiernan Business Park Specific Plan Amendment #4 EIR found that no stationary source of TACs within a one mile radius of the project center has been found to emit TACs at a level that represents an unacceptable increased health risk to the general public.

e. The proposed annexation area carries the land use designation of BP (Business Park), for which only Business Park uses would be permitted as allowed by the Kiernan Business Park Specific Plan and Section 10-2.1602 of the City's Municipal Code upon annexation to the City. The uses permitted by this designation would not generate objectionable odors during routine operation.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Air Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?				X
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?				X
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
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?				X

Impacts on biological resources are analyzed on pages IV.G.9 through IV.G.14 of the EIR certified in 2008.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the proposed development would result in the loss of occupied Burrowing Owl habitat. Mitigation measures are required that would reduce the impacts on this species to less-than-significant levels.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that any riparian habitat or other designated sensitive natural community present in the project area, and so found that the project would have a less-than-significant impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find any protected wetlands on the project site.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR identified migratory birds, including raptors, as nesting in the vicinity. Mitigation measures are provided to reduce the impact to less-than-significant.

e.-f. The Kiernan Business Park Specific Plan Amendment #4 EIR found no local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans that apply to the project area.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Biological Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d.	Disturb any human remains, including those interred				X

outside of formal cemeteries?

Cultural resources impacts are analyzed on pages 36 through 41 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that there are no known historic, archaeological, or paleontological resources in the proposed annexation area. However, the presence of these cultural resources cannot be conclusively ruled out. Implementation of General Plan policies would ensure potential cultural impacts would be less-than-significant.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Cultural Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI. GEOLOGY AND SOILS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
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.				X
2. Strong seismic groundshaking?				X
3. Seismic-related ground failure, including liquefaction?				X
4. Landslides?				X
b. Result in substantial soil erosion or the loss of topsoil?				X
c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project				X

and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? X

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? X

Impacts associated with geology and soils are analyzed on pages 41 through 44 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the proposed annexation area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures are required.

c.- d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that the underlying soil in the project site is not susceptible to liquefaction, landslides, or shrink/swell or expansion potential. No significant impacts were identified, and no mitigation measures are required.

e. The project site would be served by public sewers. Septic tanks or alternative wastewater disposal systems would not be introduced on the project site and existing septic tanks would have to be removed at time of development.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Geology and Soils impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or				X

	disposal of hazardous materials?	
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	X
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	X
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	X
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	X
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?	X
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	X
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?	X

Impacts associated with hazards and hazardous materials are analyzed on pages IV.F.6 through IV.F.9 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.– c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the proposed project development would not involve the routine transport, use, or disposal of hazardous materials. Construction activities could result in drainage of hazardous materials but would be mitigated to less-than-significant levels as a result of implementing the adopted Guidance Manual for New Development Stormwater Quality Control Measures.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded there is the potential of exposing construction workers to hazardous substance if contaminated soil or ground water is discovered during construction activities. A

mitigation measure is required that would reduce this impact to a less-than-significant level.

e. The project area is located over 7.5 miles from the nearest public airport. There would be no impact. No mitigation is required.

f. The project area is located over 5 miles from the nearest private airport. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that development of the project area would not interfere with an adopted emergency response plan or emergency evacuation plan. No mitigation is required.

h. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the surrounding area is largely agricultural or developed. There is no expectation that new development in the project area would expose people or structures to wildland fires. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hazards and Hazardous Materials impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a. Violate any water quality standards or waste discharge requirements?				X
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?				X
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?				X

d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	X
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	X
f.	Otherwise substantially degrade water quality?	X
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?	X
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	X
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?	X
j.	Contribute to inundation by seiche, tsunami, or mudflow?	X

Impacts associated with hydrology are analyzed on pages IV.H10 through IV.H.17 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the potential for pollutants from construction sites or from future land uses that could be transported to surface waters and groundwater potentially reducing the water quality. Mitigation measures are required that would reduce the impacts to a less-than-significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the construction and operation of the required detention basin system is expected to offset the minor losses of groundwater recharge associated with the increased impervious coverage proposed by the project.

c.– e. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development could substantially alter the existing drainage pattern of the area; however, because there are mitigation measures requiring the project to incorporate an urban storm drain system, the erosion or flooding impacts will be less-than-significant.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR found that existing water supply wells, if not properly managed or decommissioned, could be damaged during construction and cause water quality degradation. A mitigation measure is required that would reduce the impact to a less-than-significant level.

g.– i. The proposed annexation area is not located within any 100-year flood hazard area. The nearest river is the Stanislaus River, approximately 1.88 miles to the north. There would be no additional impact, and no mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hydrology and Water Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a.	Physically divide an established community?				X
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?				X
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Impacts associated with land use and planning are analyzed on pages IV.A.9 through IV.A.11 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The proposed annexation would not result in any physical changes to the environment beyond those identified in the Kiernan Business Park Specific Plan Amendment #4 EIR. The City has not adopted plans and policies as thresholds for significant impacts. There would be no impact and no mitigation is required.

c. There are no known habitat conservation plans or natural community conservation plans associated with this project. There would be no impact. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Land Use and Planning impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
X. MINERAL RESOURCES. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
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?				X
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?				X

Impacts associated with mineral resources are analyzed on pages 52 through 53 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. No known mineral resources or important recovery sites are located in the project area. There would be no impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XI. NOISE. Would the project when compared to the impacts identified in the Program EIR, create new				

	impacts or increase the level of existing impacts that would:	
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	X
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	X
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	X
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	X
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?	X
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	X

Impacts associated with noise are analyzed on pages IV.E.12 through IV.E.23 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that project related traffic would not cause substantial noise levels for sensitive receptors in the project vicinity. However, project related traffic could cause substantial noise levels for sensitive receptors within the project area. New stationary and non-stationary sources associated with the proposed project could generate noise levels incompatible with ordinances or goals for the surroundings. Mitigation measures are required that would reduce the noise impacts to a less-than-significant level.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that construction of the proposed project could result in a substantial temporary increase in ambient noise levels. Mitigation measures are required that would reduce the noise impacts to a less-than-significant level

e.- f. The Kiernan Business Park Specific Plan Amendment #4 EIR found that project area is not located in an airport land use plan area or within 2 miles of a public airport. The nearest private airport is about 5 miles away. There would be no impact. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Noise impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII. POPULATION AND HOUSING. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?				X
b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?				X
c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?				X

Impacts associated with population and housing are analyzed on pages 56 through 58 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that the development of the proposed project would induce population growth but at a less-than-significant level.

b.- c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified 13 home sites would be demolished throughout the project area, of which three are within the proposed 39-acre annexation area. The amount of persons displaced was determined to be less-than-significant by the Program EIR. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Population and Housing impacts would remain the same as identified in the Program EIR. There are no

new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIII. PUBLIC SERVICES. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
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:				
1. Fire protection?				X
2. Police protection?				X
3. Schools?				X
4. Parks?				X
5. Other public facilities?				X

Impacts on public services are analyzed on pages IV.I.5 through IV.I.20 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a-1. The nearest City of Modesto Fire Station to the 39-acre proposed annexation area is Station No. 11, located approximately two miles away at Carver Road and Pelandale Avenue. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the existing personnel and apparatus at Station No. 11 would be adequate to meet the need of increased demand for future business park development at the proposed annexation area. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-2. The Kiernan Business Park Specific Plan Amendment #4 EIR found that upon annexation, the Modesto Police Department would include the 67-acre portion of the project now served by the Stanislaus County Sheriff Department with Patrol Area 65. The portion of the Kiernan Business Park Specific Plan which lies within the City's incorporated area is already served by this Patrol Area. Future

development of the 39-acre proposed annexation area would result in an increase of MPD officer hours; however, long-range financing strategies are in place for each Comprehensive Planning District, allowing the City to allocate the necessary funds to extend those police services to the proposed annexation area. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-3-5. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development of the proposed project would result in increased use and demand on school and park facilities but not at a significant level. There would be no impact. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Public Services impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIV. RECREATION. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
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?				X
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?				X

Impacts associated with recreation are analyzed on pages 61 through 62 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. No significant impacts on recreation facilities were identified in the Program EIR.

Potentially Significant	Less than Significant	Less-than-Significant	No Impact

		Impact	with Mitigation Incorporated	Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:			
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?			X
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?			X
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?			X
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X
e.	Result in inadequate emergency access?			X
f.	Result in inadequate parking capacity?			X
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?			X

Impacts on transportation and traffic are analyzed on pages IV.C.37 through IV.C.85 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development of the proposed project would result in significant impacts at study intersections and roadway segments. There would also be significant cumulative impacts on road way segments. Mitigation measures were identified in the Program EIR to reduce some of the traffic impacts to a less-than-significant level. Other traffic impacts were determined to be significant and unavoidable because the mitigation measures were found infeasible. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the EIR.

c. Kiernan Business Park Specific Plan Amendment #4 EIR concluded the project would not change air traffic patterns or air traffic related safety. There would be no impact. No mitigation is required.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR determined there would not be a substantial increase in hazards due to a design feature. No mitigation is required.

e. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate emergency access in the Specific Plan area. Therefore, there would be no impact on emergency service access. No mitigation is required.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate parking capacity. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 includes bicycle paths and lanes. The proposed annexation does not include any changes related to alternative transportation policies, and would have no impact. No mitigation is required.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Transportation and Traffic impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
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?				X
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?				X

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?	X
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	X
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	X

Impacts on utilities and service systems are analyzed on pages IV.H.10 through IV.H.17, pages IV.J.16 through IV.J.11, and pages IV.K.10 through IV.K.17 of the EIR certified September 1, 2009.

Responses to Checklist Questions

a., e. The Kiernan Business Park Specific Plan Amendment #4 EIR identifies that the proposed project would result in an increased demand for wastewater collection, treatment, and disposal but not at a significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses that new project specific water facility would be need to maintain adequate water pressure. The proposed project would not require new wastewater facilities beyond those facilities already anticipated by the Wastewater Master Plan Update. The impact to water and wastewater facilities are found to be less-than-significant.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses the new storm drainage facilities that will be needed in order to accommodate build out of the project area. The EIR found that, with mitigation, there would be no significant impact on storm drainage facilities.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that, based on a Water Supply Assessment, there will be sufficient water supply to serve the project area and the impact on water demand would be less-than-significant. No mitigation is required.

f., g. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the Modesto and Stanislaus County Waste-to-Energy Plant has sufficient capacity to accommodate the project's solid waste disposal needs.

The proposed annexation is a portion of the 67 acres described in the Kiernan Business Park Specific Plan Amendment #4 Program EIR, and therefore is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Utility and Services System impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?				X
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.)				X
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?				X

Responses to Checklist Questions

a. As described above, the proposed annexation of 39 acres, as a portion of the 67 acres described on Page III.5 of the Kiernan Specific Plan Amendment #4 Program EIR, would not result in any significant impacts on the environment over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR. The proposed annexation was contemplated by and is consistent with the Program EIR.

b. As described above, the proposed 39-acre annexation would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

c. As described above, the proposed 39-acre annexation would not result in any significant impacts affecting humans over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

V. MITIGATION APPLIED TO PROJECT

The proposed annexation area is a segment of a 67-acre portion of the Kiernan Business Park Specific Plan area not yet annexed to the City, described on Page III.5 of the Kiernan Business Park Specific Plan Amendment #4 Program EIR. No new development is proposed with the application for annexation. All future development shall be by separate application and be analyzed for conformance to the Kiernan Business Park Specific Plan, and be subject to further environmental review with mitigation measures identified in the Program EIR applied where applicable.

The additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Aesthetics Measures: None.

Agricultural Resources Measures: None.

Air Quality Measures: None.

Biological Resources Measures: None.

Cultural Resources Measures: None.

Geology and Soils Measures: None.

Hazard and Hazardous Materials Measures: None.

Hydrology and Water Quality Measures: None.

Land Use and Planning Measures: None.

Mineral Resources Measures: None.

Noise Measures: None.

Population and Housing Measures: None

Public Services Measures: None.

Recreation: None

Transportation/Traffic Measures: None.

Utility and Service System Measures: None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-247

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE SALIDA FIRE PROTECTION DISTRICT FOR THE ALLOCATION OF DISTRICT REVENUE RESULTING FROM THE ANNEXATION OF PROPERTY WITHIN THE KIERNAN BUSINESS PARK TO THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Salida Fire Protection District is responsible for fire suppression and prevention within the area of City's proposed Kiernan Business Park, and

WHEREAS, City and District desire to enter into an Agreement to allocate District revenues in the event of annexation of the territory within City's proposed Kiernan Business Park to the City, and

WHEREAS, City and District agree it is in the best interest of the proposed Kiernan Business Park annexation area to receive fire and life safety services jointly from City and District, and

WHEREAS, City and District agree that it is their intent to insure that both agencies receive sufficient District revenues to provide adequate levels of fire and life safety services within the territory of the proposed Kiernan Business Park that is subject to annexation to City, and

WHEREAS, it is agreed that an equitable sharing of future District revenue from the affected Kiernan Business Park territory will benefit the overall organization of fire protection agencies and their cooperative ability to provide adequate emergency services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and the Salida Fire

Protection District for the allocation of district revenue resulting from the annexation of property within the Kiernan Business Park to the City.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 9th day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-248

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO, MODESTO CONVENTION AND VISITORS BUREAU AND BDM PROPERTIES FOR A 65-SQUARE FOOT ELECTRONIC MESSAGE BOARD SIGN TO BE LOCATED ON THE BUILDING AT 1623 J STREET; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, BDM Properties has approached the City and the Modesto Convention and Visitors Bureau with a proposal to install a 65-square foot "informational" electronic message board sign to be located on the building at 1623 J Street, and

WHEREAS, said sign is to be used for the purpose of advertising community events in Modesto and to be operated by the Modesto Convention and Visitors Bureau, and

WHEREAS, BDM Properties wishes to enter into an agreement with the City of Modesto and Modesto Convention and Visitors Bureau regarding the installation and operation of said sign, and

WHEREAS, as an informational sign authorized by the City of Modesto and operated by the Modesto Convention and Visitors Bureau, the sign is exempt from the provisions of Section 10-2.2102(qq)(2) of Article 21 of Title 10 of the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto, the Modesto Convention and Visitors Bureau and BDM Properties for a 65-square foot electronic message board sign to be located on the building at 1623 J Street.

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 9th day of June, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-249

RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF MODESTO OR HIS DESIGNEE TO SIGN AN AGREEMENT WITH THE CITY OF MENGZI, CHINA TO ESTABLISH A SISTER CITY RELATIONSHIP

WHEREAS, the City of Modesto and the City of Mengzi, China are interested in establishing a sister city relationship, and

WHEREAS, Modesto Sister Cities International has recommended the relationship, and

WHEREAS, such a relationship will promote cooperation, mutual understanding and friendship between the communities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a sister city relationship between the City of Modesto and the City of Mengzi, China,

BE IT FURTHER RESOLVED that the Mayor of the City of Modesto, or designee, is hereby authorized to execute a sister city agreement with Mengzi, China.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-250

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING BUDGET FOR VARIOUS FUNDS TO REPAY THE TENTH STREET JOINT POWERS AGENCY FOR FUNDS OWED DUE TO AN ACCOUNTING STRUCTURE CHANGE

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Fiscal Year 2009-2010 Annual Operating Budget of the City of Modesto for various funds to repay the Tenth Street Joint Powers Agency for funds owed due to an accounting structure change,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Annual Operating Budget as shown on **Exhibit A**, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: DeAnna Herrera
Telephone No.: 577-5387
Department: Finance

Council Action Date:
Resolution Number:

FY: 09-10

Fund Title: Various Funds

Transfer No.
BT or AT:

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
APPROPRIATIONS					
FROM					
TO					
TRANSFERS BETWEEN FUNDS					
FROM					
10-0100-701-3525-7850	0100G		$109,554	$109,554	**Transfer Out to Fund 8501**
10-6000-701-3525-7850	6000G		$21,340	$21,340	**Transfer Out to Fund 8501**
10-6100-701-3525-7850	6100G		$4,366	$4,366	**Transfer Out to Fund 8501**
10-6210-701-3525-7850	6210G		$12,574	$12,574	**Transfer Out to Fund 8501**
10-6290-701-3525-7850	6290G		$536	$536	**Transfer Out to Fund 8501**
10-6310-701-3525-7850	6310G		$522	$522	**Transfer Out to Fund 8501**
10-6530-701-3525-7850	0100G		$21,493	$21,493	**Transfer Out to Fund 8501**
10-6540-701-3525-7850	0100G		$1,863	$1,863	**Transfer Out to Fund 8501**
			172,248		
TO					
10-8501-701-3525-9010	8501G		$109,554	$109,554	**Transfer In From Fund 0100**
10-8501-701-3525-9600	8501G		$21,340	$21,340	**Transfer In From Fund 6000**
10-8501-701-3525-9610	8501G		$4,366	$4,366	**Transfer In From Fund 6100**
10-8501-701-3525-9621	8501G		$12,574	$12,574	**Transfer In From Fund 6210**
10-8501-701-3525-9629	8501G		$536	$536	**Transfer In From Fund 6290**
10-8501-701-3525-9631	8501G		$522	$522	**Transfer In From Fund 6310**
10-8501-701-3525-9653	8501G		$21,493	$21,493	**Transfer In From Fund 6530**
10-8501-701-3525-9654	8501G		$1,863	$1,863	**Transfer In From Fund 6540**
			172,248		

COMMENTS/JUSTIFICATION

The City of Modesto has been the financial officer for the Tenth Street Joint Power Agency operations since the construction completion of the Tenth Street Place building in 1999. When the accounting setup was created in the City of Modesto's financial system the JPA was included as part of the Building Services Fund. Since the JPA serves as a separate entity from the City, the creation of a separate fund was made in FY 2003-04 to account for the segregation of the activity between the JPA and the City. When this change occurred, there was $172,248 in JPA fund balance residing in the Building Services Fund at the end of FY 2002-03 which should have been transferred into the new fund. This transaction did not occur and now these funds are due back to the JPA. The Building Services Fund accounted for this fund balance as their own and these funds were absorbed between FY 2003-04 to the current fiscal year on the services being provided by the various City departments.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		

AT/BT # _____

BY _____ **DATE** _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010 -251

A RESOLUTION APPROVINGTHE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2010-2011 ANNUAL BUDGET

WHEREAS, Proposition IV of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the **attached** schedule shows the preferred price and population factors to be used and the appropriation limit calculation, and

WHEREAS, the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in the City of Modesto", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, **attached** hereto, and made a part hereof.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

SCHEDULE A

Fiscal Year 2010-11

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2009-2010 Appropriation Limit	*	$323,945,219
Adjustment Factors		
Per Capita Personal Income Change	-2.54%	
Population Change (Stanislaus County)	0.94%	
Per Capita converted to a ratio	0.9746	
Population converted to a ratio	1.0094	
Calculation of factor for FY2010-2011	0.9838	
Adjustment		($5,247,913)
FY2010-2011 Appropriation Limit		$318,697,306

Article XIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit.

* - The FY 09/10 Appropriation Limit Calculation was recalculated using the City of Modesto per capita ratio.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-252

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF WATER STORAGE TANK INSPECTION SERVICES AND REPAIRS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO PASO ROBLES TANK, INC., PASO ROBLES, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of water storage tank inspection services and repairs for the Public Works Department, Water Division, and

WHEREAS, the Purchasing Division issued RFB No. 0910-21 Water Storage Tank Inspection Services and Repairs to thirteen (13) prospective bidders, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. One company chose to respond. The company provided a responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of water storage tank inspection services and repairs for the Public Works Department, Water Division, to Paso Robles Tank, Inc., Paso Robles, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $32,130, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the furnishing of water storage tank

inspection services and repairs for the Public Works Department, Water Division, to Paso Robles Tank, Inc., Paso Robles, CA, conforms to the Modesto Municipal Code, and

WHEREAS, the Water Fund has funds budgeted for the furnishing of water storage tank inspection services and repairs in Appropriation Unit: 6100-480-5013-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of water storage tank inspection services and repairs for the Public Works Department, Water Division, to Paso Robles Tank, Inc., Paso Robles, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 22, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-253

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) FOR ADMINISTRATIVE SERVICES AND INVESTMENTS OF CITY EMPLOYEES' 401(A) AND 457 DEFERRED COMPENSATION PLANS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City of Modesto entered into an agreement with The International City Management Association Retirement Corporation (ICMA-RC) on April 5, 2005, to provide administrative services and investments for the City's 401(A) and 457 Deferred Compensation Plans for its employees, and

WHEREAS, the ICMA-RC has worked with the City of Modesto to deliver excellent service, and

WHEREAS, the City wishes to amend the agreement for administrative services and investments wherein ICMA-RC will pay the City an administrative allowance in the amount of $75,000 per year in the first and second year of the agreement, and $100,000 in the third year of the agreement, and

WHEREAS, at its April 26, 2010 meeting, the Finance Committee recommended exercising the City's extension option and entering into the three-year agreement with ICMA-RC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the agreement for administrative services and investments with ICMA-RC for a three-year period wherein ICMA-RC will pay the City an administrative allowance in the amount of $75,000 per year in the first and second

year of the agreement, and $100,000 in the third year of the agreement. A copy of the Amendment will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-254

A RESOLUTION APPROVING A NEW AGREEMENT FOR BROKER OF RECORD SERVICES THROUGH GALLAGHER BENEFIT SERVICES FOR AN ADDITIONAL 24-MONTH PERIOD, COMMENCING ON JULY 1, 2010; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto entered into an agreement with Gallagher Benefit Services (GALLAGHER) on November 1, 2005, to provide broker of record services, and

WHEREAS, GALLAGHER has worked with the City of Modesto to deliver excellent service, and

WHEREAS, the City wishes to extend the agreement for broker of record services with GALLAGHER for an additional 24-month period commencing on July 1, 2010, wherein GALLAGHER will reduce its monthly consulting fee from $4083.33 to $3583.33 per month, and

WHEREAS, at its May 24, 2010 meeting, the Finance Committee recommended extending the agreement for broker of record services with GALLAGHER for an additional 24-month period, commencing on July 1, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new agreement for broker of record services with GALLAGHER for an additional 24-month period, commencing on July 1, 2010. A copy of the agreement will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-255

A RESOLUTION AUTHORIZING THE CITY TO EXTEND THE RETIREMENT INCENTIVE, VOLUNTARY SEPARATION PROGRAM AND SEVERANCE PACKAGE TO ELIGIBLE EMPLOYEES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN IMPLEMENTATION DOCUMENTS

WHEREAS, the City has projected a budget shortfall for Fiscal Year 2010-11 and for Fiscal Year 2011-12 as a result of the economic downturn, and

WHEREAS, in order to address the budget shortfall, and in an effort to reduce the number of employees impacted due to budget reductions, the City desires to offer eligible employees, as authorized by the City Manager, and who have been employed by the City for at least five (5) full years of continuous service in a regular position, the option of electing to participate in either a Retirement Incentive Program or Voluntary Separation Program, and

WHEREAS, the layoff of some full time employees is inevitable, and the City desires to establish a severance package to include Severance Pay, Health Benefits and Interview Leave for employees subject to an authorized reduction in force due to budget reductions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City to extend the Retirement Incentive Program, Voluntary Separation Program and Severance Package to eligible employees upon retirement, separation or layoff as outlined in **Exhibit A**, entitled, "City of Modesto Retirement Incentive Program," **Exhibit B**, entitled, "City of Modesto Voluntary Separation Program," and **Exhibit C**, entitled, "City of Modesto Severance Package for Laid Off Employees."

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to sign implementation documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PREVIEW COPY

CITY OF MODESTO
Retirement Incentive Program

SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS

This Separation Agreement and Release of All Claims (hereinafter referred to as the "Agreement") is made and entered into by and between the undersigned "Employee," his/her heirs, representatives, attorneys, successors and assigns, and anyone claiming through Employee and the City of Modesto, a municipal corporation, and its City Council members, officers, agents, employees, administrators, representatives, executors, successors, assigns, and/or other individuals or entities related thereto (hereinafter referred to collectively as "the City").

RECITALS

WHEREAS,

1. The City has a projected budget shortfall for the remainder of fiscal year 2010-11 and for fiscal year 2011-12 as a result of the economic downturn.

2. In order to address the budget shortfall, the City is offering eligible employees who have been employed by the City for at least five (5) full years of continuous service in a regular position the option of electing to participate in the Retirement Incentive Program described herein.

3. Employee has timely notified the City, in writing by submitting the Letter of Separation/Retirement, attached hereto as Exhibit A, of his/her desire to participate in the City's Retirement Incentive Program and has been accepted for participation by the City Manager.

4. By opting to participate in the Retirement Incentive Program, Employee agrees to all the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below and for other valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **Effective Date**. This Agreement shall become effective and irrevocable by either party upon the expiration of seven (7) calendar days after this document is signed by both parties, in accordance with the revocation period set forth in paragraph 6(e) below ("Effective Date").

2. **Terms of Retirement Incentive Program.**

   a. In consideration for voluntarily retiring from the City between June 30, 2010 and July 30, 2010 (last day on payroll to be no later than July 30, 2010), Employee shall receive compensation based on full years of service with the City as of the Employee's retirement effective date. The retirement incentive amount shall be calculated based on the employee's base salary and years of continuous service, with one week's base pay per completed year of service, up to a maximum of $30,000. Based on this calculation, employee shall receive an incentive of $_____.

   b. The City Manager is authorized to extend Employee's retirement date, after consulting with the Employee, under the Retirement Incentive Program to meet the needs and objectives of the City. No appeal of the City Manager's decision shall be permitted.

   c. Employee acknowledges that Employee is voluntarily retiring and, therefore, ineligible for unemployment compensation through the California Employment Development Department.

   d. Employees shall receive all benefits to which the Employee is normally entitled upon retirement from employment with the City.

3. **Employee Representations Regarding Claims.** Employee represents there are no actions at law or administrative proceedings currently pending which concern allegations based on Employee's hiring, retention, or compensation by the City, or the termination of Employee's employment, or based on any act or failure to act by the City affecting, involving, or relating to Employee and his/her employment with the City.

4. **No Admission of Liability.** This Agreement and compliance with this Agreement shall not be construed as an admission of any liability by either Employee or the City of any unlawful or wrongful acts by either party, individually or collectively. The parties disclaim liability as to or for any and all wrongful acts against each other.

5. **Waiver and Release.** In exchange for the valuable consideration and compromises set forth in this Agreement, Employee, on behalf of himself/herself and his/her representatives, family members, heirs, administrators, executives, successors, assigns and anyone claiming through Employee, hereby releases and forever discharges the City, its City Council members, officers, directors, agents, and employees (whether former or current), volunteers, successors, assigns, insurers, attorneys, consultants, affiliates, and/or related organizations or entities (all hereafter referred to singularly and collectively as "the parties hereby released"), from any and all actions, claims, judgments, obligations, damages, and liabilities of whatsoever kind and character with Employee may now have or has ever had arising in any way from or during Employee's employment with the City, including but not limited to:

a. Any and all claims for wages, salary, paid leave, and/or benefits;

b. Any grievance or other administrative remedy deriving from City policy;

c. Any and all claims for wrongful or constructive discharge and/or reinstatement;

d. Any and all claims relating to any contracts, express or implied, or breach of the covenant of good faith and fair dealing;

e. Any and all tort claims of any nature, including but not limited to, fraud, deceit, misrepresentation, negligent misrepresentation, defamation, invasion of privacy, negligent or intentional infliction of emotional distress;

f. Any and all claims of discrimination, harassment, retaliation or failure to accommodate under federal, state or municipal statute or ordinance, including but not limited to, race, national origin, age, gender, mental or physical disability, medical condition, sexual orientation, marital status, religion, or otherwise, and including any claims under the United States Constitution, California Constitution, California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 1981, 42 U.S.C. section 1983, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, the Equal Pay Act, the Family Medical Leave Act, the California Family Rights Act, the Fair Labor Standards Act, the California Labor Code, and any other laws and regulations relating to employment; and

g. Any and all claims for attorney's fees or costs.

Employee hereby further agrees that this Agreement shall operate as a complete bar against any and all litigation, charges, grievances now pending or contemplated by Employee or which might at any time be filed including but without limiting the foregoing, and any and all matters arising out of or in any manner whatsoever connected with Employee's employment with and separation of employment from the City up to the date of Employee's separation from the City.

Employee's Initials: _____

6. **Older Workers Benefit Protection Act.** For an Employee 40 years or older and in accordance with the Older Workers Benefit Protection Act, covered Employee acknowledges having been advised by this writing of the following:

   a. Employee acknowledges having been advised to consult an attorney of his/her choosing before executing this Agreement.

DRAFT

b. Employee acknowledges that the compensation provided in this Agreement constitutes independent consideration for the said waiver and is in addition to any other payment to which Employee is entitled.

c. Employee acknowledges that this Agreement is written in a manner designed to be understood by Employee and that Employee has read the Agreement carefully and understands its terms.

d. Employee acknowledges that he/she has up to forty five (45) calendar days from the date of receipt of this Agreement to consider whether to accept it, although Employee may accept it at any time within those 45 calendar days. If Employee accepts and signs the Agreement before the end of the 45 day period, Employee acknowledges doing so voluntarily and waives any further period for consideration.

e. Employee has the right to revoke this Agreement within seven (7) calendar days after signing the Agreement. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired. In the event that Employee revokes pursuant to this section, the entire Agreement shall be void and ineffective.

Employee's Initials (40 years or older): _____

7. **Specific Waiver of Section 1542 of the California Civil Code.** Employee acknowledges that he/she has read, and hereby waives the application of Section 1542 of the Civil Code, which provides:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR."

Employee understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the Civil Code is that, even if he/she should eventually suffer or discover damages arising out of Employee's employment with the City, Employee will not be permitted to make any claim for those damages. Furthermore, Employee acknowledges that he/she intends these consequences even as to claims that may exist as of the date of this release but which Employee does not know exist, and which, if known, would materially affect Employee's decision to execute this release, regardless of whether Employee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

Employee's Initials: _____

DRAFT

8. **Protected Rights.** Employee and City agree that nothing in this Agreement is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of Employee under any Federal, state or local law, including but not limited to, the right to enforce this Agreement and recover for any breach of it, rights under California Labor Code Sections 2802 and 2804, the right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC") or to exercise any other right that cannot be waived under applicable law. Employee is releasing, however, his/her right to any monetary recovery or other relief should the EEOC or any other agency pursues claims on his/her behalf. Further, should the EEOC or any other agency obtain monetary recovery or other relief on Employee's behalf, Employee assigns to City all rights to such monetary recovery or other relief.

Employee's Initials: _____

9. **Return of Property.** Unless otherwise authorized by the City, on the last day of employment with the City, Employee shall return all City property in Employee's possession or control, including without limitation any laptop computers, keys, proximity badge, credit cards, cellular telephones, files and documents (and all copies thereof).

10. **No Precedent.** The parties specifically acknowledge and agree that this Agreement is a compromise which shall not operate, nor be considered, as evidence of a practice or past practice of the City or a precedent in the future.

11. **Construction of the Agreement.** The parties agree that in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter.

12. **Acknowledgement of Voluntary Execution.** Employee has carefully read the Agreement and understands the contents. Employee has been afforded the opportunity to consult with his/her own counsel regarding this Agreement. Employee freely, knowingly, and voluntarily enters into this Agreement without any duress or undue influence on the part of any person released by this Agreement, or by any third party. Employee warrants and represents that he/she has the mental and emotional capacity to understand the provisions of this Agreement and its effects upon his/her legal rights.

Employee's Initials: _____

13. **Partial Invalidity.** In the event that any of the covenants, duties, or restrictions of this Agreement are found to be illegal, invalid or unenforceable, such provision, if possible, shall be construed so as to render the provision legal, valid and enforceable. In the event such provision cannot be amended or construed to be legal, valid and enforceable, such provision shall be deemed deleted and the remainder of this Agreement shall remain in full force and effect.

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14. **Entire Agreement**. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter hereof. No other promises or agreements shall be binding upon the parties with respect to the subject matter of this Agreement unless contained herein or separately agreed to in writing by the parties. This Agreement may not be modified except by a writing signed by Employee and the City Manager.

15. **Applicable Law.** This Agreement shall be governed by the laws of the State of California, and shall in all respects, be interpreted and enforced under the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Stanislaus County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

16. **No Assignment.** Employee warrants that he/she has not assigned, transferred, nor purported to assign or transfer, any claim(s) Employee may have against the City, and he/she will not assign or transfer, nor purport to assign or transfer, any claim(s) he/she may have against the City. The City warrants that it has not assigned, transferred nor purported to assign or transfer any claim(s) it may have against Employee and that it will not assign nor purport to assign or transfer hereafter any claim(s) it may have against Employee.

17. **Waiver.** Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

18. **Section Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

20. **Attorney's Fees and Costs.** Each party shall bear all attorney's fees and costs arising from and/or in any way related to the actions of its own counsel with regard to the negotiation and creation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

By: _____
Employee

Date: _____

By: _____
Greg Nyhoff
City Manager

Date: _____

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood
City Attorney

RF

PREVIEW COPY

CITY OF MODESTO
Voluntary Separation Program

SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS

This Separation Agreement and Release of All Claims (hereinafter referred to as the "Agreement") is made and entered into by and between the undersigned "Employee," his/her heirs, representatives, attorneys, successors and assigns, and anyone claiming through Employee and the City of Modesto, a municipal corporation, and its City Council members, officers, agents, employees, administrators, representatives, executors, successors, assigns, and/or other individuals or entities related thereto (hereinafter referred to collectively as "the City").

RECITALS

WHEREAS,

1. The City has a projected budget shortfall for the remainder of fiscal year 2010-11 and for fiscal year 2011-12 as a result of the economic downturn.

2. In order to address the budget shortfall, the City is offering eligible employees who have been employed by the City for at least five (5) full years of continuous service in a regular position the option of electing to participate in the Voluntary Separation Program described herein.

3. Employee has timely notified the City, in writing by submitting the Letter of Separation/Retirement, attached hereto as Exhibit A, of his/her desire to participate in the City's Voluntary Separation Program and has been accepted for participation by the City Manager.

4. By opting to participate in the Voluntary Separation Program, Employee agrees to all the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below and for other valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **Effective Date**. This Agreement shall become effective and irrevocable by either party upon the expiration of seven (7) calendar days after this document is signed by both parties, in accordance with the revocation period set forth in paragraph 6(e) below ("Effective Date").

2. **Terms of Voluntary Separation Program.**

   a. In consideration for voluntarily retiring from the City between June 30, 2010 and July 30, 2010 (last day on payroll to be no later than July 30, 2010), Employee shall receive compensation based on full years of service with the City as of the Employee's separation effective date. The separation incentive amount shall be calculated based on the employee's base salary and years of continuous service, with one week's base pay per completed year of service, up to a maximum of $30,000. Based on this calculation, employee shall receive an incentive of $_____.

   b. The City Manager is authorized to extend Employee's separation date, after consulting with the Employee, under the Voluntary Separation Program to meet the needs and objectives of the City. No appeal of the City Manager's decision shall be permitted.

   c. Employee acknowledges that Employee is voluntarily retiring and, therefore, ineligible for unemployment compensation through the California Employment Development Department.

   d. Employee agrees not to re-apply for City employment within the twelve (12) months following the effective date of Employee's separation.

   e. Employees shall receive all benefits to which the Employee is normally entitled upon separation from employment with the City.

3. **Employee Representations Regarding Claims.** Employee represents there are no actions at law or administrative proceedings currently pending which concern allegations based on Employee's hiring, retention, or compensation by the City, or the termination of Employee's employment, or based on any act or failure to act by the City affecting, involving, or relating to Employee and his/her employment with the City.

4. **No Admission of Liability.** This Agreement and compliance with this Agreement shall not be construed as an admission of any liability by either Employee or the City of any unlawful or wrongful acts by either party, individually or collectively. The parties disclaim liability as to or for any and all wrongful acts against each other.

5. **Waiver and Release.** In exchange for the valuable consideration and compromises set forth in this Agreement, Employee, on behalf of himself/herself and his/her representatives, family members, heirs, administrators, executives, successors, assigns and anyone claiming through Employee, hereby releases and forever discharges the City, its City Council members, officers, directors, agents, and employees (whether former or current), volunteers, successors, assigns, insurers, attorneys, consultants, affiliates, and/or related organizations or entities (all hereafter referred to singularly and collectively as "the parties hereby released"), from any and

RFI

all actions, claims, judgments, obligations, damages, and liabilities of whatsoever kind and character with Employee may now have or has ever had arising in any way from or during Employee's employment with the City, including but not limited to:

a. Any and all claims for wages, salary, paid leave, and/or benefits;

b. Any grievance or other administrative remedy deriving from City policy;

c. Any and all claims for wrongful or constructive discharge and/or reinstatement;

d. Any and all claims relating to any contracts, express or implied, or breach of the covenant of good faith and fair dealing;

e. Any and all tort claims of any nature, including but not limited to, fraud, deceit, misrepresentation, negligent misrepresentation, defamation, invasion of privacy, negligent or intentional infliction of emotional distress;

f. Any and all claims of discrimination, harassment, retaliation or failure to accommodate under federal, state or municipal statute or ordinance, including but not limited to, race, national origin, age, gender, mental or physical disability, medical condition, sexual orientation, marital status, religion, or otherwise, and including any claims under the United States Constitution, California Constitution, California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 1981, 42 U.S.C. section 1983, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, the Equal Pay Act, the Family Medical Leave Act, the California Family Rights Act, the Fair Labor Standards Act, the California Labor Code, and any other laws and regulations relating to employment; and

g. Any and all claims for attorney's fees or costs.

Employee hereby further agrees that this Agreement shall operate as a complete bar against any and all litigation, charges, grievances now pending or contemplated by Employee or which might at any time be filed including but without limiting the foregoing, and any and all matters arising out of or in any manner whatsoever connected with Employee's employment with and separation of employment from the City up to the date of Employee's separation from the City.

Employee's Initials: _____

6. **Older Workers Benefit Protection Act.** For an Employee 40 years or older and in accordance with the Older Workers Benefit Protection Act, covered Employee acknowledges having been advised by this writing of the following:

a. Employee acknowledges having been advised to consult an attorney of his/her choosing before executing this Agreement.

b. Employee acknowledges that the compensation provided in this Agreement constitutes independent consideration for the said waiver and is in addition to any other payment to which Employee is entitled.

c. Employee acknowledges that this Agreement is written in a manner designed to be understood by Employee and that Employee has read the Agreement carefully and understands its terms.

d. Employee acknowledges that he/she has up to forty five (45) calendar days from the date of receipt of this Agreement to consider whether to accept it, although Employee may accept it at any time within those 45 calendar days. If Employee accepts and signs the Agreement before the end of the 45 day period, Employee acknowledges doing so voluntarily and waives any further period for consideration.

e. Employee has the right to revoke this Agreement within seven (7) calendar days after signing the Agreement. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired. In the event that Employee revokes pursuant to this section, the entire Agreement shall be void and ineffective.

Employee's Initials (40 years or older): _____

7. **Specific Waiver of Section 1542 of the California Civil Code.** Employee acknowledges that he/she has read, and hereby waives the application of Section 1542 of the Civil Code, which provides:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR."

Employee understands and acknowledges that the significance and consequence of this waiver of Section 1542 of the Civil Code is that, even if he/she should eventually suffer or discover damages arising out of Employee's employment with the City, Employee will not be permitted to make any claim for those damages. Furthermore, Employee acknowledges that he/she intends these consequences even as to claims that may exist as of the date of this release but which Employee does not know exist, and which, if known, would materially affect Employee's decision to execute this release, regardless of whether Employee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

DRAFT

Employee's Initials: _____

8. **Protected Rights.** Employee and City agree that nothing in this Agreement is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of Employee under any Federal, state or local law, including but not limited to, the right to enforce this Agreement and recover for any breach of it, rights under California Labor Code Sections 2802 and 2804, the right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC") or to exercise any other right that cannot be waived under applicable law. Employee is releasing, however, his/her right to any monetary recovery or other relief should the EEOC or any other agency pursues claims on his/her behalf. Further, should the EEOC or any other agency obtain monetary recovery or other relief on Employee's behalf, Employee assigns to City all rights to such monetary recovery or other relief.

Employee's Initials: _____

9. **Return of Property.** Unless otherwise authorized by the City, on the last day of employment with the City, Employee shall return all City property in Employee's possession or control, including without limitation any laptop computers, keys, proximity badge, credit cards, cellular telephones, files and documents (and all copies thereof).

10. **No Precedent.** The parties specifically acknowledge and agree that this Agreement is a compromise which shall not operate, nor be considered, as evidence of a practice or past practice of the City or a precedent in the future.

11. **Construction of the Agreement.** The parties agree that in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter.

12. **Acknowledgement of Voluntary Execution.** Employee has carefully read the Agreement and understands the contents. Employee has been afforded the opportunity to consult with his/her own counsel regarding this Agreement. Employee freely, knowingly, and voluntarily enters into this Agreement without any duress or undue influence on the part of any person released by this Agreement, or by any third party. Employee warrants and represents that he/she has the mental and emotional capacity to understand the provisions of this Agreement and its effects upon his/her legal rights.

Employee's Initials: _____

13. **Partial Invalidity.** In the event that any of the covenants, duties, or restrictions of this Agreement are found to be illegal, invalid or unenforceable, such provision, if possible, shall be construed so as to render the provision legal, valid and enforceable. In the event such provision cannot be amended or construed to be legal, valid and

RF

enforceable, such provision shall be deemed deleted and the remainder of this Agreement shall remain in full force and effect.

14. **Entire Agreement**. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter hereof. No other promises or agreements shall be binding upon the parties with respect to the subject matter of this Agreement unless contained herein or separately agreed to in writing by the parties. This Agreement may not be modified except by a writing signed by Employee and the City Manager.

15. **Applicable Law.** This Agreement shall be governed by the laws of the State of California, and shall in all respects, be interpreted and enforced under the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Stanislaus County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

16. **No Assignment.** Employee warrants that he/she has not assigned, transferred, nor purported to assign or transfer, any claim(s) Employee may have against the City, and he/she will not assign or transfer, nor purport to assign or transfer, any claim(s) he/she may have against the City. The City warrants that it has not assigned, transferred nor purported to assign or transfer any claim(s) it may have against Employee and that it will not assign nor purport to assign or transfer hereafter any claim(s) it may have against Employee.

17. **Waiver.** Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

18. **Section Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

20. **Attorney's Fees and Costs.** Each party shall bear all attorney's fees and costs arising from and/or in any way related to the actions of its own counsel with regard to the negotiation and creation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

RF

By: _____
Employee

Date: _____

By: _____
Greg Nyhoff
City Manager

Date: _____

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood
City Attorney

DRAFT

City of Modesto
Severance Package for Laid Off Employees

A recommended severance pay of 4-8 weeks of salary and health contributions would provide a limited cash payment and health coverage to assist the laid off employee faced with loss of job and income. The recommended interview leave would provide paid leave time for employees to seek other employment prior to their date of layoff. It is further recommended that the City Manager be authorized to postpone an employee's date of layoff or demotion for up to ninety (90) days at his discretion, if deemed necessary to meet the needs of the City.

Eligibility for Severance Pay: All non-sworn employees in regular positions in the classified service shall be provided with severance pay when separating from City service due to an authorized reduction in force. An eligible employee shall be entitled to receive severance pay in addition to any other benefits to which he/she may be entitled under the provisions of the Personnel Rules or appropriate Memorandum of Understanding.

Severance pay in the amount of two (2) pay periods (four weeks) base salary shall be paid to an eligible employee upon separation due to layoff. Such pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

In addition, employees with six (6) or more full years of service are eligible for additional severance pay as follows: Employees with six (6) to eight (8) years of services would receive on additional week of severance pay for a total of five (5) weeks, employees with nine (9) to eleven (11) years of service would receive two additional weeks of severance pay for a total of six (6) weeks, employees with twelve (12) to fourteen (14) years of service would receive three additional weeks of severance pay for a total of seven (7) weeks and employees with more than fourteen (14) years of service would receive a total of eight (8) weeks of severance.

At time of separation, an employee shall have the option to receive severance pay in a lump sum payment or in the form of a contribution of equal value by the City to the employee's deferred compensation plan, subject to all appropriate IRS regulations and limitations.

Eligibility for Health Contribution: Employees who receive severance pay shall also be eligible to receive the City's contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers.

Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City's Employee Assistance Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service shall be eligible for interview leave upon notification by their Department Director that they may be laid off. Employees who elect to bump down or demote to a vacancy in lieu of layoff are also eligible for interview leave.

An eligible employee may be granted up to fifteen (15) hours of paid leave for the purpose of participating in employment interviews or examinations with other employers.

As with other leave requests, interview leave is subject to approval, in advance, by the supervisor. Employees must provide supervisors with sufficient advance notice of such a leave and employees may be required to provide verification of the scheduled interview or examination. Interview leave in excess of fifteen hours may be granted with the written approval of the Department Director. Interview leave is not subject to cash out or conversion to any other benefit.

Voluntary Layoff: If an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff due to an authorized reduction in force, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

Expiration: Eligibility for severance pay, health benefit contributions and interview leave shall terminate September 30, 2010, unless extended by the City Council.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-256

RESOLUTION APPROVING THE CITY OF MODESTO'S APPLICATION FOR NATURE EDUCATION FACILITY PROGRAM FUNDS SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Nature Education Facilities Program, setting up necessary procedures governing the application, and

WHEREAS, said 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 applicant will enter into a contract with the State of California to complete the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Parks, Recreation and Neighborhoods Director to file an application for the Nature Education Facility Program grant for implementation of the McClure Country House and Nature Center, and

1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project should this grant be awarded; 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 Grant Administration Guide; and

4. Certifies that this project is consistent with the applicable city or county, or appropriate planning document, as the case may be; and

5. Delegates the authority to Parks, Recreation and Neighborhoods Department Director to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the project; and

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

7. The delegation of authority will expire June 30, 2016.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-257

RESOLUTION APPROVING THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS AS THE DEVELOPER FOR THE 412/416 DOWNEY AVENUE PROPERTIES; AND AUTHORIZING STAFF TO DRAFT AN AGREEMENT TO NEGOTIATE EXCLUSIVELY WITH THE SELECTED DEVELOPER

WHEREAS, on December 10, 2008, the Redevelopment Agency (RDA) purchased 416 Downey Avenue and on February 28, 2008, Community Development Block Grant (CDBG) funds purchased 412 Downey Avenue, and

WHEREAS, on February 9, 2010, staff released an Request For Proposal soliciting affordable housing developers to respond on or before March 26, 2010, for affordable housing units with a maximum unit count of 11 and $500,000 of City HOME funds, and

WHEREAS, City HOME funds will be used in the construction of the project, and

WHEREAS, of the four applications received, the Housing Authority of the County of Stanislaus was the only application which met the threshold of the unit count and funding constraints, and,

WHEREAS, on May 26, 2010, the Citizens' Housing and Community Development Committee approved the Housing Authority of the County of Stanislaus as their recommended developer for the 412/416 Downey Avenue properties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Housing Authority of the County of Stanislaus as the selected developer for the 412/416 Downey Avenue Properties.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that staff is hereby authorized to draft an Agreement to Negotiation Exclusively with the selected developer.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-258

A RESOLUTION APPROVING A ONE-YEAR AGREEMENT FOR TESTING SERVICES WITH KRAZAN & ASSOCIATES, INC., TO PERFORM CONSTRUCTION MATERIALS TESTING SERVICES FOR VARIOUS PUBLIC WORKS PROJECTS TO BE CONSTRUCTED DURING THE 2010/2011 FISCAL YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED $64,650 IN THE FIRST YEAR, $68,340 IN THE SECOND YEAR AND $68,880 IN THE THIRD YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, City staff finds it necessary to utilize the services of a materials testing firm during the course of administering the construction on public improvement projects, and

WHEREAS, the testing services are required to help achieve compliance with the specification requirements of the various projects, and

WHEREAS, staff does not have the required equipment or certifications to perform all the required testing services, and

WHEREAS, bids were opened on April 20, 2010, for the Construction Materials Testing Services contract, and

WHEREAS, the firm of Krazan & Associates, Inc., was the low responsive bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year Agreement for Testing Services between the City of Modesto and Krazan & Associates, Inc., to perform Construction Materials Testing Services for various Capitol Improvement projects to be constructed during the 2010/2011 fiscal year, with two (2) one-year extension options, at the sole discretion of

City, in an amount not-to-exceed $64,650 in the first year, $68,340 in the second year and $68,880 in the third year. Total cost for three years is not to exceed $201,870.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement and up to two (2) one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-259

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE E. ORANGEBURG AVENUE WATER MAIN REPLACEMENT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH ROLFE CONSTRUCTION IN THE AMOUNT OF $455,935 FOR THE E. ORANGEBURG AVENUE WATER MAIN REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the E. Orangeburg Avenue Water Main Replacement project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the E. Orangeburg Avenue Water Main Replacement project were opened at 11:00 a.m. on May 25, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $455,935 received from Rolfe Construction be accepted as the lowest responsible bid and the contract be awarded to Rolfe Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the E. Orangeburg Avenue Water Main Replacement project, accepts the bid of Rolfe Construction in the amount of $455,935, and awards Rolfe Construction the contract for the E. Orangeburg Avenue Water Main Replacement project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-260

A RESOLUTION APPROVING THE PREQUALIFIED CONSULTANT LIST, CONSISTING OF BROWN & CALDWELL, HDR, MWH, NOLTE & ASSOCIATES, AND WEST YOST ASSOCIATES, FOR AS-NEEDED ENGINEERING DESIGN SERVICES FOR SEWER & WATER PUMPING STATIONS FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS FOR A PERIOD OF THREE YEARS

WHEREAS, over the next several years, based on the Utility Planning & Projects (UP&P) Department's workload and staffing experience, there are a number of technically complex CIP projects that may require outside consultant services, and

WHEREAS, retaining a prequalified as-needed list of consultants allows the department to have quicker access to specific engineering design services when needed, and

WHEREAS, this eliminates the need to send out repetitive Requests for Qualifications for projects of similar scope and/or type, saving man-hours and project costs, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) to 150 engineering design firms for sewer & water pumping station design services, and

WHEREAS, Public Works and UP&P staff reviewed the 24 Statements of Qualifications (SOQs) that were received, and

WHEREAS, following that review, staff recommends approving these prequalified consultants: Brown & Caldwell, HDR, MWH, Nolte & Associates, and West Yost Associates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified consultant list, consisting of Brown & Caldwell, HDR, MWH, Nolte & Associates, and West Yost Associates, for As-needed Engineering Design Services for Sewer & Water Pumping Stations for various Capital Improvement Program (CIP) projects for a period of three years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-261

RESOLUTION APPROVING A LETTER OF AGREEMENT FOR A RESTRUCTURED AND EXTENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO POLICE OFFICERS' ASSOCIATION (MPOA) FOR A TERM ENDING JULY 15, 2013 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Officers Association (MPOA) expires on March 28, 2011, and

WHEREAS, representatives of the CITY and the MPOA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPOA have reached agreement on a Letter of Agreement (LOA) for a restructured and extended MOU with a new expiration date of July 15, 2013 which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the LOA provides as follows:

SECTION 1. CONTRACT EXTENSION. All terms of the existing MOU are extended except as detailed below.

SECTION 2. TERM OF MEMORANDUM. Extend the end of the current term of the MOU from 12:00 a.m. on March 28, 2011 to 12:00 a.m. on July 15, 2013.

SECTION 3. SALARY. Salary increases shall be deferred as follows:

2.0% effective July 31, 2012

3.0% effective July 2, 2013

SECTION 4. MANDATORY UNPAID FURLOUGHS. Mandatory unpaid furloughs will be taken in FY 2010-11 in the amount of 96 hours, for FY 2011-12 there shall be 72 hours of mandatory unpaid furloughs and for FY 2012-13 96 hours shall be taken as mandatory unpaid furlough.

SECTION 5. SALARY PROGRESSION THROUGH THE STEP RANGES. Progression through step ranges will become temporarily inoperative from the first pay period for FY 2010-11 through the last pay period of FY 2012-13. Therefore, MPOA members will not receive any step increases during this period. Beginning FY 2013-14 progression through step ranges will become operative and employees will move to the next step of the salary range (one step) on the employee's normal anniversary date.

SECTION 6. HEALTH, DENTAL AND VISION INSURANCE. The previously negotiated increases in the City's contribution for Plan Year 2010-11 shall be deferred until January 1, 2013. In January 2011, the City shall increase its monthly contribution to employee only by $25 and for employees with dependent coverage by $50. There will be no increase in the opt out amount.

SECTION 7. RETIREE HEALTH INSURANCE. Section 12 of the MOU shall be amended to include a Defined Contribution Health Reimbursement Account for eligible employees hired on or after January 1, 2011 pursuant to LOA as **attached**.

SECTION 8. REOPENERS.

A) Two tier retirement discussion for new hires: Agreement is required including the process of impasse/arbitration.

B) Meet and discuss regarding current employees converting from current sick leave to retiree medical trust.

C) Meet and discuss possible additional concession if needed, during term of this contract.

WHEREAS, the Council considered this matter at its meeting of June 22, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Letter of Agreement for a restructured and extended Memorandum of Understanding with a new expiration date of July 15, 2013 between the City of Modesto and the Modesto Police Officers Association and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Agreement

Between

City of Modesto

And

Modesto Police Officer's Association

Regarding Contract Extension

June 10, 2010

The City of Modesto hereby referred to as "City" and the Modesto Police Officer's Association, hereby referred to as "Association" execute this Contract Extension Agreement modifying the existing Memorandum of Understanding with the term of December 23, 2008 – March 28, 2011. Unless otherwise modified by this contract extension agreement all terms of the MOU shall be extended from March 28, 2011 – July 15, 2013:

The City and the Association agree:

1. **Term of Memorandum** Section 1: shall be amended to extend the end of the current term of the MOU from 12:00 a.m. (midnight) on March 28, 2011 to 12:00 a.m. (midnight) on July 15, 2013.
2. **Salary** Section 4 B.4: shall be amended to defer the effective date of the 2.0% salary range adjustment increase from August 31, 2010 to July 31, 2012.
3. **Salary** Section 4 B.5 shall be amended to defer the effective date of the 3.0% salary range adjustment increase from February 1, 2011 to July 2, 2013.
4. **Mandatory Furloughs** will be taken by each employee in the bargaining unit as follows:
   a. Fiscal Year July 1, 2010 – June 30, 2011 each member shall have 4.6% (4 hours) of pay deducted from his/her paycheck for twenty-four (24) pay periods beginning the pay period of July 20, 2010 and ending on June 20, 2011. Effective pay period beginning July 20, 2010, the City shall create for each member a furlough bank of 96 hours for fiscal year 2010 - 2011.
   b. Fiscal Year July 1, 2011 – June 30, 2012 each member shall have 3.5% (4 hours) of pay deducted from his/her paycheck for eighteen (18) pay periods beginning pay period June 21, 2011 through pay period ending February 27, 2012. Effective pay period beginning June 21, 2011 the City shall advance each member a furlough bank of 72 hours for fiscal year 2011 – 2012.

c. Fiscal Year July 1, 2012 – June 30, 2013 each member shall have 4.6% (4 hours) of pay deducted from his/her paycheck for twenty-four (24) pay periods beginning the pay period of June 19, 2012 through pay period ending on May 20, 2013. Effective pay period beginning June 19, 2012, the City shall advance each member a furlough bank of 96 hours for fiscal year 2012– 2013.

d. There is no cash value to the furlough bank hours. Unused furlough bank hours not taken by July 15, 2016 shall be forfeited. MPOA members may use furlough bank hours prior to using sick time or vacation time.

e. The parties agree that the City has the sole discretion to assign overtime and that the City shall not allow members of this bargaining unit to require the City to backfill with overtime to cover furlough hours in order to avoid actual reduction of pay of any employee.

f. Employees who work a reduced work schedule will have the furlough requirements reduced in proportion to their schedules.

g. Employees who separate from City service and has not contributed the salary reduction equivalent to furlough bank hours taken shall authorize the City to reduce the employee's final check by the amount needed to cover the unpaid furlough bank hours.

5. **Salary Progression through the Step Ranges** Section 4.C. 2 -4 will become temporarily inoperative from the first pay period of fiscal year 2010 – 2011 through the last pay period of fiscal year 2012 – 2013. Therefore, MPOA members will not receive any step increases during this period. Beginning in fiscal year 2013 -2014 Section 4.C.2 – 4 will become operative and employees will move to the next step of the salary range (one step) on the employees' normal anniversary date.

6. **Health, Dental and Vision Insurance** Section 13 shall be amended as follows:
   a. The increases in the City's contribution for fiscal plan year 2010 – 2011 in Section 13 of the MOU shall be deferred until January 1, 2013.
   b. In January 2011 the City shall increase its monthly contribution to employees without dependents by $25.00 and $50.00 for employees with dependents. There will be no increase in the opt out amount currently provided for in the MOU.

7. **Retiree Health Insurance Section 12** shall be amended to include a new Defined Contribution Health Reimbursement Account for eligible Employees Hired on or after January 1, 2011 as incorporated by this reference to this agreement as Attachment A.

8. **Reopeners**: The City and the Association agree to the following reopener:
   A. Two tier retirement discussion for new hires: agreement is required including the process of impasse/arbitration.

B. Association agrees to meet and discuss regarding current employees converting from current sick leave to retiree medical trust.

C. The City and the Association agrees to meet and discuss possible additional concession if needed, during the term of this contract.

This Contract Extension Agreement shall become effective upon ratification by the MPOA and adoption by the City Council on its regular agenda in conformance with the Brown Act.

Dated: 6-14-10 Dated: _____

For the Association: _____ For the City: _____

For the Association: _____ For the City _____

ATTACHMENT A to Agreement

Between

City of Modesto

And

Modesto Police Officer's Association

Regarding Contract Extension

June 10, 2010

SECTION 12: RETIREE HEALTH INSURANCE

I. Eligible Employees hired on or before January 1, 2011:

A. Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a CITY authorized plan **and is responsible for all cost**. Upon the death of a retired employee enrolled in one of the plans, surviving dependents **actively enrolled in** plan retain**s** eligibility for ~~enrollment~~ participation in the plan**s**.

B. Leave Conversion

1. Effective fiscal year 1990-91, employees who retire after five (5) **continuous** years of service in good standing may, on a one time basis, have ninety (90%) percent of their unused sick leave applied by the CITY upon retirement to premiums for health insurance plans covered by the CITY. Said insurance shall be provided in an amount up to that contributed to active employees, as needed to cover the cost of retiree health premiums at the rate of one (1) month of ~~premium~~ **CITY** contributions for each eight (8) hours of sick leave~~. The CITY's contribution to active employees without dependent coverage shall be further defined as that amount contributed to active employees on the lowest priced HMO health plan, including Dental and Vision, for plan years 2009-2010 and 2010-2011.~~ Upon death of the employee, the employee's spouse, ~~or~~ registered domestic partner**,** or dependents **actively enrolled in plan** shall remain eligible to receive the remaining benefit under the same terms and conditions.

~~2. In addition, effective November 9, 1993, or the closest pay period thereto, for retirees who retired after July 1, 1990, and elect to have dental and/or vision insurance, the CITY shall contribute an amount up to that contributed to the CITY's dental insurance plan and/or the CITY's vision insurance plan for active employees, for the same number of months as calculated for health insurance.~~

3. Employees who select paragraph 1 above may, in addition to converting accrued sick leave to health insurance, convert accrued compensatory time, vacation leave, holiday time, and grand fathered holiday time upon retirement to premiums for health insurance plans covered by the CITY on the same basis as sick leave. Any amount of compensatory time, vacation leave or holiday time so applied shall be subtracted from the cash out of such leaves/times provided for in this MOU.

C. The CITY's monthly contribution rate towards health, dental and vision insurance for those retirees participating in the sick leave conversion program shall be up to the following amounts, as needed to cover the cost of the premiums:

1. **Up to** ~~$535.00~~ **$596** ~~monthly~~ for **retirees without dependent coverage.** ~~, effective August 1, 2008. This contribution rate is subject to change August 1, 2009, and August 1, 2010, pursuant to paragraph B, 1, above.~~ **This amount shall increase to $621 effective January 1, 2011.**

2. **Up to** ~~$957.00~~ **$1,050** ~~monthly~~ for **retirees with dependent coverage.** ~~, effective August 1, 2008~~. **This amount shall increase to $1,100 effective January 1, 2011.**

~~Monthly~~	~~Effective~~
~~$1050.00~~	~~August 1, 2009~~
~~$1125.00~~	~~August 1, 2010~~

~~Effective August 1, 2003,~~ The CITY's contribution toward dependent coverage shall not exceed the actual premium amount for the lowest cost HMO for active employees (including Dental and Vision) offered by the CITY, regardless of the health plan selected by the retiree or the contribution amounts listed above.

D. If a retiree's health premium in any given month is less than the designated CITY contribution, the excess contribution shall be applied on behalf of the retiree to that month's premiums for dental and~~/or~~ vision insurance, if the retiree has elected these plans.

At the time a retiree initially moves or during any open enrollment period or IRS-approved life change situation, a retiree who lives out of the HMO service area, or out of state, may elect to use multiple monthly increments (up to a maximum of three (3) months) of their accumulated sick leave conversion benefits to offset higher health insurance premiums for plans sponsored by the CITY. During any subsequent open enrollment, the retiree may reduce the number of multiple increments. Retirees electing this option will be required to sign an acknowledgement form that indicates they understand that they will be using their benefit proportionately.

~~Effective fiscal year 1994-1995, the CITY will notify retirees of the amount of their insurance premiums on an annual basis and will no longer provide monthly statements. Retirees will be responsible for submitting their appropriate monthly premium.~~

II. Eligible Employees hired on or after January 1, 2011:

A. **Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a CITY-authorized plan and is responsible for all costs. Upon the death of a retired employee enrolled in one of the plans, surviving dependents actively enrolled in plan retains eligibility for participation in the plan.**

B. **For employees hired on or after January 1, 2011, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account, as described below:**

1) **Eligibility: Regular full time employees and employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions are eligible to receive a City HRA contribution, if they have completed two (2) full years of continuous City regular service. If an employee separates employment before meeting the eligibility requirement, the employee shall receive no benefit.**

2) **City Contribution:**

a. **Initial Contribution: On the first pay period following completion of two (2) full years of continuous City service, regular full time employees shall receive a lump sum contribution of $2,400 deposited into an HRA account established in their name.**

Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated lump sum contribution based on their hours worked.

b. Regular City Contribution: After the initial contribution (defined above) is made, the City shall contribute $0.5769 per pay status hour (no more than 80 hours biweekly), not including overtime, for each eligible full time employee up to a maximum of $100.00 per month ($46.15 per pay period) for full time employees. For a full time employee, this equates to a maximum of $1,200 per year after the initial eligibility period is met. Employees hired on or after January 1, 2011 and subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City's contribution under this section represents the entire contribution towards employee retiree medical.

3) Access to Account Balance:

a) Participants may access the balance in their HRA account upon termination of employment and attainment of age 50 or retirement from CalPERS Retirement System, whichever is earlier.
b) Participants may defer accessing the account balance to any time beyond the earliest date described in (a).
c) Amounts that remain in the account balance are available to reimburse the participant for the same permitted medical expenses for the spouse and any other dependent covered under the retiree medical plan subject to the limitations and maximums as stipulated by law, however, federal regulations at this time does not permit the inclusion of expenses for domestic partners.

4) Survivors of eligible retirees with account balances:

a) Spouses and eligible dependent children or dependent adults that are disabled may continue to access account balances after the death of the retiree subject to the limitations and maximums as stipulated by law.
b) Domestic partners are not permitted access to the account balances of the participant at this time by virtue of

restrictions in the federal regulations that govern these types of accounts.

5) Forfeiture of account balance:

   a) If an active employee dies prior to retirement, the amount of account balance is available to eligible spouses and dependents to reimburse them for medical expenses permitted under the applicable section of the Internal Revenue code.
   b) Account balances in part or in total for active participants or retirees without any eligible spouse or dependent or unused account balances after the death of the last eligible spouse or dependent will be forfeited and returned to all other active and retired participants in the form of a dividend allocated in direct proportion to the amount to be distributed divided by the total account balance for all participants applied to each individual account balance.

6) This benefit will be subject to regulation under section 105(b) of the Internal Revenue Code and subject to revenue rulings for these types of plans as promulgated.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-262

RESOLUTION APPROVING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) FOR A TERM OF JUNE 22, 2010 TO JUNE 18, 2012 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) will expire on June 21, 2010, and

WHEREAS, representatives of the CITY and the MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCMA have reached agreement on language changes for a successor MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 22, 2010 to June 18, 2012.

SECTION 2. REOPENER.

A) Meet and confer on further concessions, if deemed necessary.

B) Meet and confer through impasse and implementation process on pension reform no later than August 2, 2010.

C) Meet and confer on Sick Leave and Retiree Medical Conversion Program Restructuring no later than August 2, 2010.

SECTION 3. MANDATORY FURLOUGHS. For FY 2010-11 and FY 2011-12, each bargaining unit member shall take 96-hours of mandatory furloughs per year. Two furlough days shall be non-fixed so that employees can schedule them in the manner as vacation is scheduled. The remaining ten days shall be scheduled as fixed dates. The dates for FY 2010-11 will be July 2, September 3, November 22, 23, 24, December 27, 28, 29, 30 and February 14. The corresponding dates for FY 2011-12 shall be determined once the 2011-2012 holiday schedule is available.

SECTION 4. PAY PERIOD DEFINITION. The first full pay period under the MOU shall commence at 12:01. a.m., Tuesday, June 22, 2010.

SECTION 5. APPROVED WORK SCHEDULES. The Four-Eleven Work Schedule shall be eliminated as an approved alternate work schedule.

SECTION 6. HOLIDAYS. The elimination of the Four-Eleven Schedule necessitates language changes pertaining to holidays. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 7. EXEMPT MANAGEMENT LEAVE.

A) There is no cash value to the management leave and shall not be subject to cash out provisions. Management Leave shall be for exempt employees only.

B) Commencing January 1, 2011, employees in exempt regular positions shall be granted 40 hours of Management Leave each January and July of each calendar year to be taken at the discretion of the employee and upon approval by the Department Director, and shall be prorated for less than full-time employees. Said leave shall be advanced with the first paycheck in January and July and must be taken off prior to the next advance. Exceptions may be

considered should the request for use be submitted, approved and scheduled within 60 days of the next advance, either January or July or each calendar year. Leave not used before the end of the calendar year period for which it is advanced will be forfeited.

C) An exempt employee hired after Management Leave has been advanced for the calendar year shall be eligible for a pro-rated portion of Leave.

SECTION 8. SICK LEAVE. The Retirement provision to have 90% of unused sick leave up to 2,200 hours applied to premiums for health, dental and vision insurance plans shall apply to employees hired on or before December 31, 2010 and shall be for those employees who retire in good standing after five years of continuous service.

SECTION 9. LEAVES OF ABSENCE. Language changes to include language as required by state and federal law pertaining to Family and Medical Leave, Parental Participation in Children's School Activities, Leave for Victims of Domestic Violence or Sexual Assault, and Victims of Crime.

SECTION 10. HEALTH, DENTAL, VISION INSURANCE. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	Total Contributions (monthly)	
	7/1/09	1/1/11
Family	$1050	$1100
Employee Only	596	621
Opt Out	450	450

SECTION 11. RETIREE HEALTH INSURANCE. For employees hired on or after January 1, 2011 the CITY shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health reimbursement Arrangement (HRA) account up to a maximum of $100 per month. The

employees subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City's contribution under this section represents the entire contribution towards employee retiree medical.

SECTION 12. LAYOFF AND DEMOTION PROCEDURES.

A) Clarifies language regarding transfer of an affected employee to a vacancy in the same classification, if any, in the employee's department, and employees with the least continuous service shall be transferred first.

B) Clarifies language with respect to affected employees bumping from a higher to lower classification within the employee's department within the same classification the employee previously held or in the same classification series provided the employee has more length of continuous service. All persons laid off shall have their names placed on the classification reinstatement eligible list for one year. Departments will be encouraged to consider employees on reinstatement lists for vacant positions.

C) The use of performance evaluations for purposes of determining seniority has been eliminated.

SECTION 13. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the July 22, 2008, through June 22, 2009, MOU between the CITY and MCMA shall continue in the new MOU.

The exact language of all provisions shall be set forth in the MOU between the CITY and MCMA.

WHEREAS, the Council considered this matter at its meeting of June 22, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association, which covers a term from June 22, 2010 through June 18, 2012, 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 June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-263

RESOLUTION APPROVING A LETTER OF UNDERSTANDING FOR A RESTRUCTURED AND EXTENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHTERS' ASSOCIATION (MCFFA) FOR A TERM ENDING JUNE 30, 2013 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) expires on December 20, 2010, and was modified and extended pursuant to Resolution # 2009-269, and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCFFA have reached agreement on a Letter of Understanding (LOU) for a restructured and extended MOU with a new expiration date of June 30, 2013 which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the LOU provides as follows:

SECTION 1. CONTRACT AND LETTER OF UNDERSTANDING EXTENSION. All terms of the MOU and the 2009 LOU shall be extended to June 30, 2013 unless otherwise amended by this agreement.

SECTION 2. BROWN OUT OF ENGINE 21. The 2009 LOU shall be amended to provide that the City, at the sole discretion of the Fire Chief, may "brown out" from operations Engine 21 for the period May 1, 2010 through June 30, 2010.

SECTION 3. ELIMINATE ENGINE 21. Eliminate from service Engine 21 and simultaneously consistently staff one apparatus assigned to the downtown with four personnel comprised of one captain, one engineer and two firefighters.

SECTION 4. SALARY INCREASES. Employees shall defer wage increases as follows:

a. 3% - July 5, 2011
b. 3% - July 3, 2012
c. 2.5% - June 18, 2013

SECTION 5. EMT PAY. Employees who are certified as Emergency Medical Technicians (EMT-1), shall be increased by 1% salary for their classification.

SECTION 6. VACATION BOARD. For the period of July 1, 2010 through December 31, 2012, and except for Thanksgiving, Christmas Eve and Christmas Day, only, the positions available on the vacation board shall be reduced from five (5) to four (4).

SECTION 7. HEALTH, DENTAL, VISION BENEFITS. Effective January 1, 2011, the City's monthly allowance for the cafeteria plan shall be increased by $25 for employee only and $50 for all other categories except those employees who "Opt Out." Effective January 1, 2013, the City's monthly allowance for the cafeteria plan, except as to those employees who "Opt Out," shall be increased by $25, provided, however, that if the General Fund revenues for FY 2011-12, exclusive of transfers, exceeds General Fund revenues for FY 2010-11 by six percent (6%) or more, any increase in the City's monthly allowance shall be determined by negotiations between the City and the Union and the MOU shall reopen for negotiation over the City's monthly allowance for the cafeteria plan.

SECTION 8. REOPENERS. Upon request by the City by June 30, 2011, the parties shall reopen the MOU for negotiations concerning retirement benefits for prospective employees, in accordance with City Charter Section 1206.

SECTION 9. AGENCY SHOP. Effective July 1, 2010, agency fee shop provisions shall exist as a matter of contract between the CITY and MCFFA pursuant to the LOU as **attached** hereto.

WHEREAS, the Council considered this matter at its meeting of June 22, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Letter of Understanding for a restructured and extended Memorandum of Understanding between the City of Modesto and the Modesto City Fire Fighters' Association (MCFFA) for a term ending June 30, 2013 contingent upon an affirmative ratification vote by MCFFA membership, 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 June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Letter of Understanding
Between
City of Modesto
and
Modesto Professional Firefighters, IAFF Local 1289

Regarding Contract Extension

The City of Modesto, hereby referred to as "City" and the Modesto Professional Firefighters, IAFF Local 1289, hereby referred to as "Union" execute this Letter of Understanding ("LOU") on this _____ day of _____ 2010 regarding the extension of the existing Memorandum of Understanding ("MOU") as modified by the June 2009 LOU by and between the City and the Union.

The City and the Union agree:

1. Except as modified herein, all terms of the MOU and the 2009 LOU shall be extended from December 19, 2011 to June 30, 2013.

2. The 2009 LOU shall be amended to provide that the City, at the sole discretion of the Fire Chief, may "brown out" from operations Engine 21 for the period May 1, 2010 through June 30, 2010.

3. Effective as soon as practicable upon the ratification of this LOU, the City shall offer a cash severance incentive to employees of the bargaining unit represented by the Union up to $30,000 per individual employee. If more than nine (9) employees accept the offer of cash severance, the number of employees eligible to participate shall be

determined by the City Manager, provided the most senior nine (9) department employees shall be granted the cash severance.

4. At the Fire Chief's sole and exclusive discretion, the City will consistently staff one apparatus assigned to the downtown (station 1) with four (4) personnel comprised of one captain, one engineer and two firefighters. Consistent staffing means that the firefighter in seat four (4) is not backfilled if that firefighter uses any accrued leave (e.g., vacation, sick or holiday leave). The firefighter in seat four (4) shall not be used to fill any other constant staffing positions. If fiscal conditions require, the City may reduce the consistent staffing on this apparatus from four (4) personnel to three (3) personnel, however, the City shall first notify the Union of this need in order to permit the parties to discuss potential alternatives.

5. Effective July 1, 2010, Article 17 Section A of the MOU is amended to provide that there shall be a minimum of thirty-six (36) suppression personnel on duty each shift composed of three (3) employees per engine (Captain, Engineer and Firefighter) and three (3) employees per truck company (Captain, Engineer and Firefighter). The Crash Fire Rescue at Station 8 shall be unstaffed.

6. Notwithstanding anything to the contrary in the MOU or the 2009 LOU, employees of the bargaining unit shall receive the following wage

increases beginning in the first full pay period of each listed month, except for June 30, 2013:

a. July 2011 - 3%

b. July 2012 - 3%

c. June 18, 2013 - 2.5%

7. Effective June 22, 2010, Article 5, paragraph c) of the MOU is amended to provide that employees who are certified as Emergency Medical Technicians (EMT-1), shall receive a monthly allowance equivalent to five percent (5%) of the base salary for their classification, which will be based upon one hundred and twelve (112) hours per pay period for shift employees.

8. For the period of July 1, 2010 through December 31, 2012, and except for Thanksgiving, Christmas Eve and Christmas Day, only, the positions available on the vacation board shall be reduced from five (5) to four (4) beginning January 1, 2013 the vacation board returns to five (5).

9. Effective January 1, 2011, the City's monthly allowance for the cafeteria plan under Article 20 of the MOU shall be increased by $25.00 for employee only and $50.00 for all other categories except those employees who "Opt Out". Effective January 1, 2013, the City's monthly allowance for the cafeteria plan, except as to those employees who "Opt Out," shall be increased

by $25.00 for all other categories, provided, however, that if the City's General Fund revenues for FY 12, exclusive of transfers, exceeds General Fund revenues for FY 10 by six percent (6%) or more, any increase in the City's monthly allowance shall be determined by negotiations between the City and the Union and the MOU shall reopen for negotiation over the City's monthly allowance for the cafeteria plan under Article 20 of the MOU effective January 1, 2013.

10. Upon request by the City by June 30, 2011, the parties shall reopen the MOU for negotiations concerning retirement benefits for prospective employees, in accordance with City Charter Section 1206.

11. Effective July 1, 2010, the following agency fee shop provisions shall exist as a matter of contract between the City and the Union:

> A current employee in the bargaining unit employed as of July 1, 2010, and any new employee in the Unit, as a condition of continuing employment with the City, shall execute a payroll deduction authorization form as furnished by the Union, and thereby shall become and remain a member in good standing in the Union. New employees shall execute an authorization under this paragraph within 30 calendar days of employment. In the alternative to membership, the employee shall execute a

payroll deduction authorization form as furnished by the Union, and thereby pay to the Union an initial fee equal to the regular initiation fee and, thereafter, a monthly service fee equal to the regular monthly Union dues; or, in the case of employees who certify that they are members of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting pubic employee organizations, execute a payroll deduction form as furnished by the Union, and thereby pay sums equal to Union dues, initiation fees, or service fees to only the: (1) International Association of Firefighters' Burn Foundation; (2) UC Davis Firefighters Burn Unit; or (3) Muscular Dystrophy Association.

Upon seven (7) days' notice to the City from the Union that an employee described above has failed to maintain the bargaining unit member's membership in good standing or has failed to maintain the bargaining unit member's current service fee for payments or has failed to maintain the bargaining unit members' current charitable contribution payments to one of the three (3) charities designated above, then the City shall: (1)

counsel the employee regarding the bargaining unit member's obligation under this provisions; and (2) inform the employee that further failure to maintain the appropriate payments shall subject the employee to discharge.

Annually, the Union will provide an explanation of the fee and sufficient financial information to enable the service fee payer to gauge the appropriateness of the fee. As a condition precedent to deducting the service fee or taking any action against an employee for failure to authorize service fee payments, the City must receive certification from the Union that the Union has provided all fee payers with the financial disclosure required by law, including an independently audited financial disclosure of the Union's chargeable expenses. The Union will provide a reasonable, prompt opportunity to challenge the amount of the fee before an impartial decision maker not chosen by the Union and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.

The Union shall indemnify and hold harmless the City, its officers and employees, from and against any and all

loss, damages, costs, expenses, claims, attorney fees, demands, actions, suits, judgments, and other proceedings arising out of any discharge action resulting from this provision.

This Letter of Understanding shall become effective upon ratification by the effective membership of the Union and by the Modesto City Council.

Dated: _____

MODESTO FIREFIGHTERS, IAFF LOCAL 1289

By: _____

Dated: _____

CITY OF MODESTO

By: _____

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Last revised: 6/10/10

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-264

A RESOLUTION SUSPENDING MANAGEMENT LEAVE CASHOUT FOR 2010, CONTINUING UNPAID FURLOUGHS THROUGH FISCAL YEAR 2010-11, AND IMPLEMENTING A DEFINED CONTRIBUTION RETIREE MEDICAL BENEFIT PLAN FOR NEWLY HIRED UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES EFFECTIVE JANUARY 1, 2011 AND INCORPORATING PREVIOUSLY AUTHORIZED BENEFITS BY AMENDING SECTIONS 1, 6, 7, AND 21 OF RESOLUTION NO. 2009-233 AND ADDING SECTION 25

WHEREAS, the City is seeking employee concessions as part of the effort to balance the City budget and address the City's budget shortfall, and

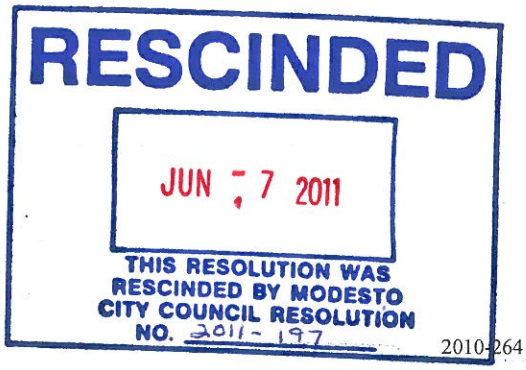
WHEREAS, Unrepresented employees and Charter Officers have agreed to take 96 hours of unpaid furloughs, and

WHEREAS, Unrepresented employees and Charter Officers have agreed to forego cash out of Management and Confidential Leave for 2010,

WHEREAS, the City will implement a Defined Contribution Retiree Medical Benefit Plan for all Unrepresented employees and Charter Officers hired on or after January 1, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees, including Charter Officers and Executives, is hereby designated to be the following:



City Contribution (monthly) - Sworn and Non-Sworn		
	7/21/2009	1/1/2011
Family	$1050	$1100
Employee Only	$596	$621
Opt Out	$450	$450

The City shall deposit into the employee's deferred compensation account any balance remaining from the above listed contributions not needed to pay for the employee's health, dental or vision premiums. Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, any balance of said contributions shall be directed to the employee's Health Savings Account.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. REGISTERED ENGINEER PAY. Effective January 6, 2009, those employees in the classifications of Deputy Director who possess a current registration as a Professional Civil or Traffic Engineer in the State of California shall no longer be eligible to receive 7.5% Registered Engineer Pay as the pay has been incorporated into the base pay for the classifications.

SECTION 3. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

Positions	Effective Date	Allowance
Sworn Police	January 1, 2008	$94.00 (Per Reso. No. 2005-602)
Sworn Fire Management	July 1, 2007	$85.00

SECTION 4. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 5. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 6. MANAGEMENT LEAVE. Commencing January 1, 2011, management employees in exempt regular positions shall be advanced 40 hours of Management Leave (Fire Battalion Chiefs on a 56-hour schedule shall be advanced 56 hours) each January and July of each calendar year to be taken at the discretion of the employee and upon approval of City Manager, and shall be prorated for less than full-time employees. Said leave shall be advanced with the first paycheck in January and July and must be taken off prior to the next advance. Exceptions may be considered should the request for use be submitted, approved and scheduled within 60 days of the next advance, either January or July or each calendar year. Leave not used before the end of the calendar year period for which it is advanced will be forfeited. An exempt employee hired after Management Leave has been advanced for the calendar year shall be eligible for a pro-rated portion of Leave.

In the event of separation from City employment of any person who has taken

Management Leave prior to the time all of said leave is earned, the employee shall be required to make full restitution to the City for that portion of leave taken but remaining unearned on the date of termination of employment. Employees separating from City service will be paid for earned Management Leave credit.

SECTION 7. MANAGEMENT AND CONFIDENTIAL LEAVE ANNUAL CASHOUT. For calendar year 2010 no employee will be permitted to cash out Management or Confidential Leave.

The maximum number of hours available for cash out each December shall be 40 hours annually for Management employees, except that for overtime-eligible Management employees the maximum cash out shall be 20 hours effective calendar year 2006. Maximum annual cash out shall be 18 hours for Confidential employees.

Effective December 2007, the maximum annual cash out shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cash out shall be 84 hours.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars ($1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for

stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1560 hours. In the event that an employee works less than

1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first pay period to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due

to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be

afforded the opportunity to cash out up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 19. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be $400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of $300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of $100-$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. Effective May 27, 2008, per Resolution 2008-305, the vehicle allowance for Charter Officers is increased to a maximum of $500/month.

SECTION 20. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES. Effective June 22, 1999, Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused sick leave, reduced by hours previously converted to Deferred Compensation, as follows: (1) Ninety (90%) percent of accrued sick leave hours as of the date of the employee's

initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accruing after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 21. FURLOUGH. Effective June 22, 2010 all employees (except Fire Battalion Chief working a 56 hour schedule) shall take ninety six (96) hours of mandatory furloughs in fiscal year 2010-2011. For the pay period beginning July 20, 2010 through pay period ending June 20, 2011, each employee shall have four (4) unpaid furlough hours deducted from his/her paycheck. Effective pay period beginning June 22, 2010, the City shall create for each employee a furlough bank of ninety-six (96) hours for fiscal year 2010-2011. There is no cash value to the furlough bank hours. Unused furlough bank hours not taken by June 20, 2011 shall be forfeited. An employee who separates from City service and has not contributed the salary reduction equivalent to furlough bank hours taken shall authorize the City to reduce the employee's final check by the amount needed to cover the unpaid furlough bank hours.

Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be required to take 134.24 hours of mandatory furloughs in fiscal year 2010-2011. For the pay period beginning July 20, 2010 through pay period ending June 20, 2011, Fire Battalion Chiefs shall have 5.36 unpaid furlough hours deducted from his/her paycheck. Effective pay period beginning June 22, 2010, the City shall create for each Fire Battalion Chief working a 56 hour schedule a furlough bank of 134.24 hours for fiscal year 2010-2011. There is no cash value to the furlough bank hours. Unused furlough bank hours not taken by June 20, 2011 shall be forfeited. An employee who separates from City

service and has not contributed the salary reduction equivalent to furlough bank hours taken shall authorize the City to reduce the employee's final check by the amount needed to cover the unpaid furlough bank hours.

SECTION 22. EMERGENCY MEDICAL TECHNICIAN CERTIFICATION PAY. Effective July 1, 1990, sworn Fire Management employees in the classifications of Fire Battalion Chief and Fire Division Chief who are certified as Medical First Responders, shall receive a monthly allowance equivalent to two and one-half percent (2.5%) of the base salary for their classification. Employees who are certified as Emergency Medical Technicians (EMT-I), shall receive a monthly allowance equivalent to four percent (4.0%) of the base salary for their classification. The EMT-I allowance shall be in lieu of the Medical First Responder allowance.

SECTION 23. MUTUAL AID ASSIGNMENT. Per Resolution 2001-485, effective September 25, 2001, Sworn Fire Management employees in the classification of Fire Battalion Chief and Fire Division Chief shall receive a stipend when assigned to fill Strike Team and Task Force Leader assignments. Fire Battalion Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1000 for a 24 hour period. Fire Division Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1200 for a 24 hour period subject to the following conditions:

1. The assignment results from a request through the California Office of Emergency Services.
2. The assignment is subject to reimbursement through the "Cooperative Agreement for Local Government Fire Suppression."

3. Regularly scheduled work hours are not included and partial periods are pro-rated to the nearest hour.

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 24. ASSISTANT CHIEF OF POLICE ASSIGNMENT PAY. Effective

May 26, 1998, subject to the approval of the City Manager, the Police Chief may appoint employees currently employed by the Police Department in the classification of Police Captain to the assignment of Assistant Chief of Police. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Police Chief. The Police Chief may end the assignment at any time and such employee shall return to an assignment as Police Captain (unless removed due to dismissal) at a step no lower than the step the employee held at time of assignment. The total number of assignments shall be at the sole discretion of the City Manager.

SECTION 25. RETIREE HEALTH INSURANCE. Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a City-authorized plan and are responsible for all cost.

For employees hired **on or before December 31, 2010** and who retire after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused sick leave, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY. Said insurance shall be provided in an amount up to that contributed to active employees subject to changes in

the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium at the rate of one month of CITY contribution for each eight hours of sick leave.

For employees hired **on or after January 1, 2011**, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account. An employee is eligible to receive a City HRA contribution upon completion of two full years. If an employee separates employment before meeting eligibility requirement, the employee shall receive no benefit. On the first pay period following completion of two full years of continuous City service, the CITY shall deposit $2,400 into an HRA account established in the employee's name. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated lump sum contribution based on hours worked. After the initial contribution is made, the City shall contribute $0.5769 per pay status hour (no more than 80 hours biweekly), not including overtime, for each eligible full time employee, up to a maximum of $100 per month ($46.15 per pay period). Employees hired on or after January 1, 2011 and subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City's contribution under this section represents the entire contribution towards employee retiree medical.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-265

A RESOLUTION AUTHORIZING THE CLOSURE OF CITY OFFICES PURSUANT TO MEMORANDA OF UNDERSTANDING WITH EMPLOYEE ASSOCIATION CONTRACT LANGUAGE RELATING TO MANDATORY UNPAID WORK FURLOUGHS

WHEREAS, the City has projected a budget shortfall for Fiscal Year 2010-11 as a result of the economic downturn, and

WHEREAS, in order to address the budget shortfall, the City met and conferred with its employee bargaining units and Unrepresented employees and negotiated 96 hours or 12 days of mandatory unpaid work furlough for affected bargaining units, and

WHEREAS, 16 hours or two days of the mandatory furlough hours will be non-fixed and scheduled by employees like vacation, 10 of the mandatory furlough dates are fixed and tied to currently scheduled holiday closures and said dates coincide with furlough dates scheduled for Stanislaus County employees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the closure of City Offices on the following dates:

Friday, July 2, 2010

Friday, September 3, 2010

Monday through Wednesday, November 22, 23, and 24, 2010

Monday through Thursday, December 27, 28, 29, and 30, 2010

Monday, February 14, 2011

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-266

A RESOLUTION APPROVING BUDGET GOALS AND BUDGET PRINCIPLES AS OUTLINED IN THE MAYOR'S BUDGET MESSAGE AND RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2010-11 BUDGET DEVELOPMENT PROCESS

WHEREAS, as part of the Mayor's Proposed Budget for FY 2010-11, the Mayor included Proposed Budget Goals and Budget Principles for the Council's consideration, and

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, in the development of the FY 2010-11 operating budget, the Finance Committee reviewed and recommended for City Council consideration the **attached** Proposed Budget Goals and Budget Principles,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Proposed Budget Goals and Budget Principles as shown in **Exhibits 1 and 2**, which are incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY 2010-11 Proposed Budget Goals

Focus resources on vital public services.

Continue efforts which will result in long-term structural budget changes.

Reduce deferred maintenance.

Increase the City's economic opportunities.

Recommended Budget Principles

1. Annually Adopt a Structurally Balanced Budget
A structurally balance budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

2. Use of One-Time Resources
Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-reoccurring expenditures.

3. Budget Revisions
New programs, services, or staffing requests are considered in light of the Council's priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

4. Reserves
All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which a minimum of 8% of the operating budget shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

5. Debt Issuance
Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

6. Employee Compensation
Recognizing that employees are the City's major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City's fiscal condition, revenue growth, and changes in the cost of living.

7. Capital Improvement Projects
Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City's core services.

8. Fees and Charges
The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.

9. Grants
Staff will seek out, apply for, and effectively administer grants that address the City's priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of on-going programs.

10. General Plan
The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City's financial capabilities.

11. Performance Measurement
All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-267

A RESOLUTION AMENDING THE FISCAL YEAR 2009-10 OPERATING BUDGETS FOR THE WORKER'S COMPENSATION HOLIDAY ASSOCIATED WITH THE ADOPTED POLICY ITEM APPROVED AS PART OF THE ADOPTION OF THE FISCAL YEAR 2010-11 PROPOSED OPERATING BUDGET.

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget for Fiscal Year 2010-11 to the Finance Committee at workshops held on May 17, 2010 and June 2, 2010, and

WHEREAS, during these workshops the Finance Committee was presented with a policy issue affecting both the Proposed Fiscal Year 2010-11 budget and the Fiscal Year 2009-10 operating budget, and

WHEREAS, the Finance Committee approved the policy issue for consideration by the full City Council during its meeting held on June 2, 2010, and

WHEREAS, the City Council has considered the policy recommendation brought before it and has approved the item and desires to have them incorporated into the Fiscal Year 2009-10 operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-10 Operating Budget as shown in **Exhibit A** which is incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Fund #	Fund Name	FY 09/10 Current Worker's Comp Budget	1/2 Yr Workers Comp Holiday	FY 09/10 Adjusted Worker's Comp Budget
0100 Total	General Fund	3,597,192	1,798,596	1,798,596
0300 Total	Capital Improvement Support	35,218	17,609	17,609
0310 Total	Solid Waste Special Revenue	7,217	3,609	3,609
0370 Total	Green Waste Diversion Fund	19,907	9,954	9,954
0700 Total	Special Gas Tax Fund	61,079	30,540	30,540
1130 Total	CDBG - Direct Program	9,705	4,853	4,853
1170 Total	Home Program	990	495	495
2900 Total	Infrastructure Fin Prgm Admin	6,165	3,083	3,083
6000 Total	Parking Fund	7,417	3,709	3,709
6100 Total	Water Fund	242,578	121,289	121,289
6210 Total	Wastewater Fund	264,001	132,001	132,001
6280 Total	Water Fund - CIP	67,422	33,711	33,711
6290 Total	Compost Operations	7,027	3,514	3,514
6310 Total	Airport Operating Fund	4,995	2,498	2,498
6540 Total	Bus Fixed Route Max Operations	20,481	10,241	10,241
6550 Total	Bus Fixed Route - Alt Transport	263	132	132
6700 Total	Centre Plaza	13,183	6,592	6,592
7110 Total	Inventory Purchases	2,518	1,259	1,259
7120 Total	Central Services - Mail	877	439	439
7130 Total	Information Technology	36,688	18,344	18,344
7200 Total	Fleet Management Fund	25,997	12,999	12,999
7310 Total	Insurance - Admin	15,194	7,597	7,597
7520 Total	Employee Benefits Admin	7,739	3,870	3,870
7800 Total	Building Services	38,229	19,115	19,115
8500 Total	JPA - Tenth Street Place	2,496	1,248	1,248
8850 Total	SDEA	5,469	2,735	2,735
8900 Total	TRRP	263	132	132
Grand Total		4,500,310	2,250,155	2,250,155

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-268

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PROVISION OF THIRD PARTY ADMINISTRATION OF WORKERS' COMPENSATION CLAIMS SERVICES TO YORK INSURANCE SERVICES GROUP, INC.; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto provides workers' compensation benefits to its employees, and

WHEREAS, the City of Modesto issued a Request For Proposal for third party administrative services to adjust workers' compensation claims, and

WHEREAS, York Insurance Services Group, Inc. provided a responsive and responsible submittal, and

WHEREAS, York Insurance Services Group, Inc. was selected by the evaluation committee as the service provider that best meets the City's needs, and

WHEREAS, York Insurance Services Group, Inc. will provide a cost-effective and enhanced service delivery system, and

WHEREAS, the City of Modesto desires to enter into an Agreement with York Insurance Services Group, Inc. to serve as the provider of third party administrative services for workers' compensation claims,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and contract for the provision of third party administration of workers' compensation claims services to York Insurance Services Group, Inc. for a two-year contract, with three one-year extension options, for a total cost over five years of $1,646,126.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-269

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 RISK ADMINISTRATION AND WORKERS' COMPENSATION BUDGETS TO FULLY FUND THE FIRST YEAR COST OF WORKERS' COMPENSATION THIRD PARTY ADMINISTRATION SERVICES

WHEREAS, the City has authorized the award of bid and contract for the administration of workers' compensation claims services to York Insurance Services Group, Inc., and

WHEREAS, the City will realize a reduction in salary expense in the Risk Administration Fund, and

WHEREAS, Risk Administration Fund reserves will be added to the salary savings, and

WHEREAS, the salary savings and Risk Administration Fund reserve will be used to fund the first year administrative service fee of $306,972,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 Risk Administration and Workers' Compensation Internal Service Fund as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Fund Name:
Risk Admin Fund

	Revenue Account Adjustments	
7310-030-0372-4909	Inter-fund Labor Charges	-$306,972
	Expense Account Adjustments	
7310-030-0372-0184	Salary Adjustment (Decrease)	-$123,079
7310-030-0372-0194	Benefit Adjustment (Decrease)	-$43,884
7310-800-8000-8003	Risk Admin Reserves	-$140,009

Workers' Comp Fund

	Expense Account Adjustments	
7320-030-6610-0235	Services Professional and Other	$306,972
7320-030-6610-0235	Inter-fund Service Credit	-$306,972

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-270

RESOLUTION APPROVING A COMMITMENT OF REDEVELOPMENT AGENCY HOUSING SET-ASIDE (RDA) AND CITY HOME FUNDS FOR THE PROJECT LOCATED AT 17TH & G STREETS, ALSO KNOWN AS "TOWER PARK", IN THE AMOUNT OF $2.7 MILLION

WHEREAS, on June 27, 2006, by Resolution No. 7-2006, the Redevelopment Agency (RDA) approved the purchase of 17th & G Streets also referred to as "Tower Park", and

WHEREAS, the RDA Housing Set-Aside Fund owns "Tower Park" and has maintained the parcel as a park with the intent to build an affordable housing project on site, and

WHEREAS, on April 22, 2009, staff released a Request for Quotations (RFQ) soliciting affordable housing developers, and Satellite Housing and American Baptist Homes of the West was selected as the preferred developer, and

WHEREAS, a funding commitment from the City will allow the developer to submit a request for other funding such as HUD 202 funds which has a submittal deadline of July 2010, and

WHEREAS, on May 26, 2010, the Citizens' Housing and Community Development Committee (CH&CDC) approved the commitment of RDA Housing Set-Aside and City HOME funds for the project located at 17th & G Streets also known as "Tower Park" in the amount of $2.7 million,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a commitment of Redevelopment Agency Housing Set-Aside

(RDA) and City HOME funds for the project located at 17th & G Street, also known as "Tower Park", in the amount of $2.7 million.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-271

RESOLUTION AUTHORIZING STAFF TO DRAFT A PRE-CONSTRUCTION LOAN AGREEMENT AND A DISPOSITION AND DEVELOPMENT AGREEMENT, WHICH WILL BE BROUGHT BACK TO THE COUNCIL FOR FINAL APPROVAL

WHEREAS, on June 27, 2006, by Resolution No. 7-2006, the Redevelopment Agency (RDA) approved the purchase of 17th & G Streets, also referred to as "Tower Park", and

WHEREAS, the RDA Housing Set-Aside Fund owns "Tower Park" and has maintained the parcel as a park with the intent to build an affordable housing project on site, and

WHEREAS, on April 22, 2009, staff released a Request for Quotations (RFQ) soliciting affordable housing developers, and Satellite Housing and American Baptist Homes of the West was selected as the preferred developer, and

WHEREAS, a funding commitment from the City will allow the developer to submit a request for other funding such as HUD 202 funds which has a submittal deadline of July 2010, and

WHEREAS, on May 26, 2010, the Citizens' Housing & Community Development Committee (CH&CDC) approved the commitment of RDA Housing Set-Aside and City HOME funds for the project located at 17th & G Streets, also known as "Tower Park", in the amount of $2.7 million,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to draft a Pre-Construction Loan Agreement to be brought back to Council for final approval.

AND BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to draft a Disposition and Development Agreement which will be brought back to Council for final approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDED on Mar. 22, 2011 By Resolution 2011-105 2011-106

Print

AMENDED on 9-14-2010 By Resolution 2010-410

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-272

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2006-055, AND UPDATING THE 2006 CAPITAL FACILITIES FEES PROGRAM TO DECREASE LAND VALUES FOR PROPERTY ACQUISITION

WHEREAS, California Government Code Section 66000 et seq., and Modesto Municipal Code Sections 8-1.904 et seq. authorize the City Council, by resolution, to establish a Capital Facilities Fees Program (CFF) for the construction and acquisition of certain public facilities, and

WHEREAS, on June 24, 2003, the City Council, by Resolution No. 2003-309, amended Resolution No. 88-649, as amended, and adopted the 2003 CFF Update Report and on file with the City Clerk for City facilities associated with capital items related to police, fire, parks, transit, streets, air quality, and governmental facilities and, administration of the CFF, and

WHEREAS, on January 24, 2006, the City Council, by Resolution No. 2006-055 amended and restated Resolution No. 2003-309 which increased land values for property acquisition, increased funding available to acquire right of way for expressways, and established the 2006 CFF Program, and

WHEREAS, the fees collected pursuant to this resolution will be used to finance the public capital facilities identified in the 2003 CFF Update Report and some additional right of way acquisition which is necessary to construct expressways identified in the 2003 CFF Update Report, and

WHEREAS, due to market conditions, land values have decreased dramatically, and

RESCINDED
MAY 7 2013
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2013-177

WHEREAS, the Council has asked that any significant increases or decreases be presented on an ongoing basis to make certain that development is paying its share, and

WHEREAS, an appraisal documenting typical land values in the City of Modesto and County of Stanislaus has been prepared and City staff have studied the impact of those land values on the City's 2006 CFF, a copy of which is **attached** as **Exhibit A** (Appraisal), and

WHEREAS, based on the decreases in land values, the staff proposes that the 2006 CFF should be adjusted to reflect these changes in costs, and

WHEREAS, the Notice of Public Hearing was published in the Modesto Bee on June 2, 2010, and

WHEREAS, the matter was set for public hearing on June 22, 2010, at 5:30 p.m., in the City Council Chambers, Basement Level, located at 1010 Tenth Street, at which date and time said hearing was opened and closed, and

WHEREAS, the Council has determined that it is necessary and appropriate to update the 2006 CFF in order to reflect the decrease in land value costs, and

WHEREAS, Resolution No. 2006-055 is hereby amended solely with respect to the land values associated with acquisition of right of way and the establishment of new 2010 CFF to reflect these decreased land value costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2006-055 is hereby amended, and that Council hereby finds and determines as follows:

A. That 2010 Capital Facilities Fees shall be established to reflect these decreased land value costs, and

B. That the implementation and payment of the 2010 Capital Facilities Fees shall be for all new development and maps vested after September 3, 2003.

D. This resolution shall become effective on and after the date of its adoption, and that the fees shall become effective 60 days from the adoption of this resolution.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2006-055 is hereby reaffirmed and restated herein in its entirety as follows:

A. Overview of Fees Determination: Capital Facilities Fees levied by the City shall be the result of two factors described in this paragraph:

1. The Full Recovery Fees reflect the full cost allocation to each category of new development of capital facilities necessary to serve growth.
2. The annual inflation adjustment will escalate fees by the amount of inflation.

B. Full Recovery Capital Facilities Fees: The Full Recovery Capital Facilities Fees (CFF) levied on each category of development in the City of Modesto shall be the fees levied per **Attachment A**. Land use categories shall have the definition contained in Item G-2 below.

C. Automatic Annual Inflation Adjustment: All fees shall be automatically adjusted for inflation by the City's Director of Utilities Projects and Planning (formerly known as Engineering and Transportation and/or Public Works). The annual adjustment shall be based on the annual change in the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index through the proceeding December.

BE IT FURTHER RESOLVED, that

A-1. There is a reasonable relationship between the need for the public facilities designated in the reports and analysis, and in the City's General Plan and Specific Plans generated in accordance with that plan, and the City's Capital Improvement Plan, and the impacts of the type of development for which the corresponding fees are charged.

B-1. There is a reasonable relationship between the fees, uses, and the types of development for which the fee is charged.

C-1. There is a reasonable relationship between the amount of the various fees and the cost of the public facilities or portions of the public facilities attributable to the development and types of development upon which the various fees are imposed.

D-1. The cost estimates set forth in the reports and analysis are reasonable cost estimates for constructing these facilities, and the fees expected to be generated by future development will not exceed the total costs of constructing the public facilities just referenced.

E-1. The 2003 CFF Update Report and analysis establish a linkage or nexus between development in the City's Annexation Areas (unincorporated area of the City's General Plan Area) and the need for additional public facilities or improvements to existing public facilities within the City of Modesto as well as within the Annexation Areas. Therefore, the term "development" as used in the preceding four subparagraphs shall include

but not be limited to, development in the City's Annexation Areas that may be approved or allowed by Stanislaus County, prior to the annexation of said Annexation Areas or portions thereof to the City of Modesto. Because of this clearly established nexus, it is the intention of the City Council of the City of Modesto that the fees created by this resolution for streets facilities, air quality facilities, and public transportation facilities be imposed by the County of Stanislaus on development approved of or allowed by the County of Stanislaus in the City's Annexation Areas area and collected by the City of Modesto, and

BE IT FURTHER RESOLVED that:

A-2. The 2006 Capital Facilities Fees are hereby adopted as shown in **Exhibit B**, and

B-2. The City Council finds that only projects shown in the adopted 2003 CFF Update Report including the acquisition of all right of way necessary to develop the expressways identified in the 2003 CFF Report, are eligible for receipt of CFF funds and individual projects shall be flexibly budgeted within total dollar limits of the capital programs of the two principal fee components as follows:

a. Fees for Community Facilities, which include Police, Fire, Parks, Government and Administration.

b. Fees for Transportation, which include Streets, Transit and Air Quality.

As long as the overall dollar amounts of the capital programs for these two components are not exceeded, individual eligible projects may vary from the estimates shown in the CFF Update Report, and

C-2. The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2003 Capital Facilities Fees, so that a development project that is not vested under State law would be subject to the fees in place prior to adoption of Resolution No. 2003-309 on September 1, 2003, if the development project meets any of the following criteria:

a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-September 3, 2003, CFF rate.

b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to September 3, 2003; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been

deemed complete by the State permitting agency prior to September 3, 2003.

c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, prior to September 3, 2003, until the expiration of the map's vesting status, and

D-2 The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2006 Capital Facilities Fees, so that a development project that is not vested under State law would be subject to the fees in place prior to January 25, 2006, if the development project meets any of the following criteria:

a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-January 25, 2006, CFF rate.

b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to January 25, 2006; or, for development which is not subject to permit by

the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior on or before March 25, 2006.

c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, on or before January 24, 2006, until the expiration of the map's vesting status, and

E-2. CFF shall be due and payable at the time a building permit is issued, unless otherwise approved by Council resolution, as set forth in Modesto Municipal Code Section 8-1.904, and

F-2. The City Council shall annually review one or more components of the capital program that form the basis of calculating the Capital Facilities Fees. This policy in no way prevents the upward adjustment of fees due to annual inflation, and

G-2. For purposes of the fees the following definitions of land use development categories shall apply. Uses not defined in these definitions shall be charged at rates to be determined by the CFF Administrator using land use determinations and trip generation estimates acceptable to the Administrator.

RESIDENTIAL
Single Family: Typically single family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

Multiple Family: Includes multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. This category also applies to mobile homes and hotel/motel uses.

Medium Density: Shall mean duplex or triplex buildings located on a single lot designed for occupancy by two or three families.

Senior Housing: Includes retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

INDUSTRIAL

Manufacturing/Light Industrial/Industrial Park – facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses which are considered to be in this category include uses such as those listed below:

1) Electronics assembly, paper products
2) Metal fabricator
3) Bottling plant
4) Cabinet shop
5) Machine shop
6) Sheet-metal shop
7) Welding shop
8) Wholesale shop
9) Printing plant
10) Material testing labors manufacturer
11) Food processor, brewery, bakery
12) Recycling facility
13) Burning operations for lumber and wood products
14) Junk handling, processing, storage
15) Landfill, waste products disposal or transfer station
16) Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.
17) Rock crushing
18) Pulp and paper mill
19) Reduction, processing and storage of offal, dead animals, bones or similar materials
20) Septic tank, cesspool servicing
21) Stockyard
22) Tannery
23) Vehicle salvaging, wrecking

Mixed Industrial Uses – when a development proposal contains more than an incidental mixture of uses, the general type of uses should be segregated and treated separately for the purpose of calculating development fees.

WAREHOUSE DISTRIBUTION/HEAVY

Warehouse Distribution – Facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping materials. Use which are considered to be in this category include uses such as those listed below:

1) Freight
2) Warehousing
3) Corporation yard, freight yard
4) Equipment rental yard
5) Moving and storage service
6) Bulk feed storage
7) Lumberyard
8) Sand, gravel, building materials dealer

OFFICE

Medical: Offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.

General: All other types of general and professional offices.

COMMERCIAL

Small Retail (less than 50,000 square feet)

Convenience markets, often with on-site gasoline pumps, usually 24-hours or extended hours.

Fast-food restaurants with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken to be consumed outside the restaurant building, although some on-site seating is usually provided.

Sit-down restaurants where food is ordered and consumed in the restaurant, and customers generally stay less than one hour; frequently belong to chains and typically serve breakfast, lunch and dinner. This category also includes all drinking establishments—bars and cocktail lounges—except those in conjunction with low turnover restaurants. The latter are charged the low turnover rate.

Sit-down restaurants which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

Banks – full service banking institutions with or without drive-up windows.
Savings and Loan institutions, including thrift and credit unions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given Savings and Loan is 5,000 gross square feet or more, or provides full banking services, it should be treated as a bank.

Other retail includes a wide range of retail and service uses, both free-standing and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, video arcades, and new car sales. May include uses in small retail category if in a shopping center.

OTHER

Church: Structures primarily designed as a place for public worship.

Day Care and School: An educational, vocational or day care facility.

Hospital: A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injured of the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital or laboratories, outpatient departments, training facilities, central service facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered "professional offices" if located off-site, unless a multi-site campus is covered by a P-D Zone or hospital uses. A separate set of offices on the same site for physicians is considered "professional offices".

Mini-Warehouse: A personal storage facility not associated with industrial use.

Nursing Home: Structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family.

For purposes of interpreting these definitions, the term "Commercial Use" shall mean those uses designated as permitted or conditional uses in the C-1, C-2 and C-3 Zones of Title 10 of the Modesto Municipal Code.

BE IT FURTHER RESOLVED by the City Council that the Director of Community and Economic is authorized to present proposals to the City Council for transfer of CFF waiver from existing buildings to other locations based upon the following criteria:

A. The project involves commercial/industrial job retention of at least 25 jobs or redevelopment of blighted areas.

B. The beneficiary of the transfer is the owner of the existing building or the existing building is demolished and was not given a waiver when rebuilt.

BE IT FURTHER RESOLVED by the City Council that the findings of Initial Study EA C&ED No. 2003-20 are hereby acknowledged, namely,

A. The proposed 2003 CFF Update is within the scope of the General Plan covered by the Modesto Urban Area General Report Plan 2003 Final Master Environmental Impact Report (SCH#1999082041) (FMEIR).

B. The proposed 2003 CFF Update will have no new additional significant effect on the environment not addressed in the FMEIR and no new or additional mitigation measures are required.

C. As per Public Resources Code Section 21157.1, no new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act for the 2003 CFF Update.

D. There are no specific features that are unique to the proposed project that require project specific mitigation measures. All feasible mitigation

measures set forth in the FMEIR Update that are appropriate to the 2003 CFF Update shall be incorporated in the 2003 CFF Update.

E. No new or additional mitigation measures are required for the proposed 2003 Update. All certified mitigation measures identified in the FMEIR will apply citywide including this project as appropriate.

F. The initial study EA/C&ED 2003-20 provides substantial evidence to support findings A through E above.

BE IT FUTHER RESOLVED, by the City Council that in addition to other findings made by this resolution, the City Council further finds that the California Environmental Quality Act (CEQA) does not apply to the adoption of this resolution pursuant to Sections 10561 and 15273 of the State CEQA Guidelines because:

A. The fees established by this resolution will be collected, in part, for the purpose of obtaining funds to be used for capital projects which are necessary to maintain the current level of services within the City, including the construction of police, fire facilities, parks and recreation facilities, other city facilities, air quality facilities, public transportation facilities and street facilities as well as the purchase of certain items of capital equipment.

B. However, the addition of capital facilities to new neighborhoods will not take effect until there has been CEQA review of the development projects which will pay for said capital facilities via the Capital Facilities Fee mechanism established or increased by this resolution. Such CEQA review will take place at the annexation, zoning, and/or subdivision stages

of each development project. In addition, the construction of each capital facility will be subject to CEQA review. It is therefore reasonably certain that this resolution which either established or increased Capital Facilities Fees to fund Capital Facilities that will be necessary in the event growth continues to occur will not, by itself, have any possibility of causing a significant effect on the environment.

BE IT FURTHER RESOLVED by the City Council 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 with the invalid fee, provision, clause, paragraph or subparagraph, and to this end, the provisions of this resolution 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALAWOOD, City Attorney

COGDILL & GIOMI, INC.
REAL ESTATE APPRAISERS & CONSULTANTS

April 29, 2010

Amy S. Gedney
IFP Administrative Officer
City of Modesto
Infrastructure Financing Program
Office of the City Manager
1010 Tenth Street, Suite 6100
Post Office Box 642
Modesto, CA 95353

Re: CFF Update – City Wide and
Sphere of Influence Land Values

Dear Ms. Gedney:

In response to your request and authorization we have proceeded with the necessary investigation and analysis in order to determine stabilized land values within the City of Modesto and sphere of influence. The function and intended use of this analysis is to assist the City of Modesto in updating Capital Facility Fees. A number of stabilized land values were provided for various land uses consisting of residential, commercial, industrial, and land located within the sphere of influence having higher use potential upon annexation.

For the purpose of this study the market was researched over a fifteen year period, taking into account the highs and lows of markets over that time period. The present real estate market is depressed with very little market activity. The only activity that does exist appears to be from speculators who are able to pay cash given the difficulty in achieving financing. As a result, the present values experienced in this market are a far cry from the values experienced at the height of the real estate market in 2005 to 2007. It is our opinion that stabilizing the highs and lows over this time period reflecting the cycles in the real estate market is the most accurate way to determine values in order to establish fees.

For the purpose of this consulting assignment the scope includes the following:

- Research of the market over a period of from 1995 to 2010 for sales and listings of various land uses within the City of Modesto and sphere of influence

- Land uses researched consisted of various forms of residential, commercial, and industrial, as well as land within the sphere of influence surrounding Modesto having future development potential upon annexation

- Sources for this research consisted of CoStar, Inc., Loopnet, Board of Realtors, Multiple Listing Service, County Assessor's office, interviews with real estate brokers and other appraisers, and data collected in our plant over this time period

- Interviews with city officials regarding zoning, general plan, utilities, and development requirements

- Analysis of the data found in order to determine stabilized value conclusions for the various property types within the City of Modesto and surrounding area

Based upon the market study, the concluded stabilized values for the various property types are as follows:

Land Uses	**Stabilized Values**
Subdivision Land – Within the City (Infill Properties)	$200,000 to $250,000 Per Acre
Subdivision Land – Within the Village Neighborhoods	$150,000 to $200,000 Per Acre
Paper Lot Values in Modesto Area	$45,000 to $50,000 Per Lot
Land Within City of Modesto Sphere of Influence (VR, BP, RC, I)	$75,000 to $100,000 Per Acre
Developed Industrial Sites	$4.00 to $6.00 Per Square Foot
R-2 and R-3 (Multi Residential) Parcels (Infill Parcels)	$150,000 to $200,000 Per Acre
Office Building Sites	$10.00 to $12.00 Per Square Foot
Large Shopping Center Land Values	$8.00 to $10.00 Per Square Foot
Retail Pads (.50 to 2 Acres)	$13.00 to $15.00 Per Square Foot

We trust this study and concluded values are sufficient for your immediate needs. We have not included the sales data used in valuing the various components given the fact that there were several sales and a large amount of data analyzed over a fifteen year time period. This data can be made readily available upon written request. Once again, it is important to note that our analysis took into account the highs and lows of the real estate cycles experienced between the years of 1995 and 2010. The stabilized values stated are not reflective of current land values, given the depressed nature of the market. It is our opinion and upon direction by the client (City of Modesto), that stabilizing values over this time period is the most accurate and fair method to determine fees. If you have any questions concerning this analysis or our conclusions, please do not hesitate to contact us.

Thank you for this opportunity to be of service.

Respectfully,

COGDILL & GIOMI, INC.

David R. Giomi, MAI, RM

David E. Cogdill, Jr.

APPRAISAL QUALIFICATIONS
David R. Giomi, MAI, RM
1317 I Street
Modesto, CA 95354

PROFESSIONAL EDUCATION
Reedley College, Agri-business
Fresno State College, Agri-business

Courses Completed:

American Institute of Real Estate Appraisers Courses:
Course 1A: Basic Appraisal Principles, Methods and Techniques
Course 1B: Capitalization Theory and Techniques
Course 2: Urban Properties, Application of Appraisal Theory, Case Studies, Lease Interests and Their Valuation.
Course 8-2: Residential Valuation, Match Pair Analysis
Course 6: Computer Assisted Investment Analysis
Business Practices & Ethics

Modesto Junior College:
Appraisal of Single Family Residences; Complete Function of Applied Principles and Techniques for the Valuation of Single Family Residential Properties

American Society of Farm Managers and Rural Appraisers
Course of Advanced Case Studies in Rural Valuation
Fractional Interest Valuation

Recent Workshops and Classes:
1. California OREA Federal and State Law
2. Several USPAP Update and Review
3. "Appraising The Tough Ones" Seminar
4. Subdivision Analysis Seminar
5. Dynamics of Office Building Valuation
6. Standards of Professional Appraisal Practice (A & B & C)
7. Vineyard Valuation (1 & 2)
8. Real Estate Updates
9. Eminent Domain Case Law
10. USPAP Update Course
11. Dairy Facility Appraisal

EXPERIENCE

May 1, 1981 to Dec. 2007:	Principal, Cogdill & Giomi
March, 1974 to May, 1981:	Appraiser, Robert Ford & Assoc., Inc.
1971-1974:	Asst. Vice President and Branch Manager of Investors Thrift. Part-time appraiser with all work completed on residential properties.

I have completed appraisals for the U.S. Forest Service, Caltrans, General Services Administration, City of Turlock, City of Modesto, Stanislaus County, Modesto Irrigation District, Turlock Irrigation District, City of Ripon, Bank of America, Bank of California, Wells Fargo Bank, Modesto Commerce Bank, Pacific State Bank, WestAmerica Bank, Bank of the West, and various individuals including attorneys and accountants.

Qualified as Expert Witness in various hearings, Municipal Court and Superior Court, State of California.

Appraisals have covered the areas of residential subdivisions, commercial, industrial, agricultural and recreational properties, as well as eminent domain cases

MEMBERSHIPS
The Appraisal Institute (MAI, RM)
Professional Member of the American Society of Farm Managers and Rural Appraisers
Modesto Board of Realtors (Affiliate Member)
State of California "Certified General Real Estate Appraiser" Certificate No. AGOO4978

ACTIVITIES
Instructor - Farm Appraisal, Modesto Junior College
Past Board of Director of the Appraisal Institute Chapter 11 (Northern California Chapter)
Past Member Advisory Committee for Real Estate, Modesto Junior College
Instructor - Residential and Commercial Properties, Modesto Junior College

APPRAISAL QUALIFICATIONS

David E. Cogdill, Jr.
1317 I Street
Modesto, CA 95354

EDUCATION

California State University, Stanislaus - Bachelor of Arts Degree
Modesto Junior College - Associate in Arts Degree

PROFESSIONAL COURSES

Courses Completed and Passed, 1989 to Present:

American Institute of Real Estate Appraisers:
Course 8-1: Real Estate Appraisal Principles, June, 1990
Course 120: Appraisal Procedures, March, 1996
Course 310: Basic Income Capitalization, August, 1996
Course 320: General Applications, June, 1997
Course 410: Standards of Professional Practice (USPAP), October, 1995
Course 420: Standards of Professional Practice (Part B), October, 1995
Course 430: Standards of Professional Practice (Part C), March, 2001
Course 510: Advanced Income Capitalization, October, 1998
Course 520: Highest and Best Use and Market Analysis, March, 1998
Course 530: Advanced Sales Comparison and Cost Approach, June, 1999
Course 540: Report Writing and Valuation Analysis, October, 2003
Course 550: Advanced Applications (Case Studies), November, 2003
USPAP Update Seminar, November, 1999
Course 710: Condemnation Appraising: Principles and Applications, June, 2000

American Society of Farm Managers and Rural Appraisers:
Fractional Interest Valuation, February, 1998

Modesto Junior College:
Real Estate Residential Appraisal, Modesto Junior College, 1989

EXPERIENCE

January 1, 2007 to Present: President of Cogdill & Giomi, Inc., Real Estate Appraisers

June 1995 to December 2006: Associate Appraiser, Cogdill & Giomi, Real Estate Appraisers

May 1989 to May 1995: Researcher, Cogdill & Giomi, Real Estate Appraisers

I have completed appraisals for Caltrans, City of Modesto, City of Oakdale, City of Turlock, City of Manteca, City of Ripon, Stanislaus County, San Joaquin County, Modesto Irrigation District, Wells Fargo Bank, Bank of the West, West America Bank, Bank of Stockton, Modesto Commerce Bank, U.S. Bank, Bank of Agriculture and Commerce, County Bank, Farmers & Merchants Bank, Central Valley Community Bank, and various other real estate developers, individuals, accountants and attorneys.

Appraisals have covered the area of residential, commercial, industrial, agricultural, recreational and special use properties.

In addition to my 18 years of real estate appraisal experience, I served two years on the City of Modesto Planning Commission and Board of Zoning Adjustment. I have a real estate broker's license issued by the California Department of Real Estate and have represented buyers and sellers of residential, commercial, industrial and agricultural properties.

CERTIFICATION

Certified General Real Estate Appraiser by the State of California, AG025634, dated September 30, 1998
Real Estate Broker License issued by Department of Real Estate, State of California, dated July 16, 1999

PROFESSIONAL AFFILIATION & MEMBERSHIPS

Associate Member in the Appraisal Institute Pursuing MAI Designation
Central Valley Association of Realtors
Modesto Chamber of Commerce
Modesto Rotary Club
City of Modesto Planning Commissioner 2004 - 2006
City of Modesto Charter Review Committee 2006 - Present

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-273

RESOLUTION APPROVING A THIRD AMENDMENT TO THE U. S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-2010

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, adopted the Annual Action Plan for FY 2009-2010, and

WHEREAS, this is the third substantial amendment to the Annual Action Plan, and

WHEREAS, any substantial amendments to the Annual Action Plan require City Council approval, and

WHEREAS, this amendment was made available for public review and comment beginning June 7, 2010, and will close with a City Council public hearing on June 22, 2010, and

WHEREAS, any remaining funds from the NSP1 homebuyers assistance activity after June 22, 2010, and currently estimated at $491,031, will be reallocated to the acquisition and rehabilitation activity for targeted sites,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a third amendment to the U. S. Department of Housing & Urban Development Annual Action Plan for Fiscal Year 2009-2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-274

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-2010

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, adopted the Annual Action Plan for FY 2009-2010, and

WHEREAS, this is a third substantial amendment to the Annual Action Plan, and

WHEREAS, any substantial amendments to the Annual Action Plan require City Council approval, and

WHEREAS, this third amendment will reallocate any remaining funds from the NSP1 homebuyers' assistance activity after June 22, 2010, and currently estimated at $491,031, to the acquisition and rehabilitation activity for targeted sites,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009-2010 Annual Operating budget is hereby amended to reallocate any remaining funds from the NSP1 homebuyers' assistance activity after June 22, 2010, and currently estimated at $491,031, to the acquisition and rehabilitation activity for targeted sites.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-275

A RESOLUTION APPROVING THE APPOINTMENTS OF COUNCILMEMBER BRAD HAWN AND COUNCILMEMBER GARRAD MARSH TO THE REGIONAL SURFACE WATER SUPPLY PROJECT (RSWSP) STEERING COMMITTEE

WHEREAS, on March 24, 2010, a Joint Agency Council Workshop was held to provide information on the RSWSP including project history, project value and next steps needed to move forward, and

WHEREAS, the Mayors of the four cities consisting of Hughson, Turlock and Modesto agreed to the formation of a Councilmember-based Steering Committee on the RSWSP to provide policy direction and fiscal decisions, and

WHEREAS, the RSWSP Steering Committee will consist of two appointed Councilmembers from each City, and

WHEREAS, Mayor Ridenour has selected Councilmembers, Brad Hawn and Garrad Marsh, to serve on this committee, and

WHEREAS, each member will have equally weighted votes in the process (length of service to be determined), and

WHEREAS, the proposed members for the RSWSP Steering Committee are:

Councilmember:	Brad Hawn
Councilmember:	Garrad Marsh

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Councilmember Brad Hawn and Councilmember Garrad Marsh to the Regional Surface Water Supply Project (RSWSP) Steering Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-276

A RESOLUTION APPROVING A COST SHARING AGREEMEMENT BETWEEN THE CITIES OF CERES, HUGHSON, MODESTO, AND TURLOCK FOR DEVELOPMENT OF AN INTEGRATED REGIONAL WATER MANAGEMENT PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Turlock Irrigation District (TID) and the cities of Ceres, Hughson, Modesto, and Turlock have been working together for several years on a joint project to supply each agency with treated TID supplied surface water, and

WHEREAS, in December 2008, TID gave formal notice that they would no longer plan, finance, own, and operate the treatment plant, including related transmission facilities, and then sell treated surface water to the four cities, and

WHEREAS, in January 2009, the cities of Ceres, Hughson, Modesto and Turlock formed a technical advisory committee (TAC) to continue discussion on the issues of a future Regional Surface Water Supply Project (RSWSP) under a possible joint financed, owned and operated project, and

WHEREAS, on May 26, 2009, by Resolution No. 2009-225, the City Council directed staff to continue working with TID and the three other cities in the development of a Joint Powers Authority (JPA) responsible for decisions pertaining to the future Regional Surface Water Supply Project (RSWSP), and

WHEREAS, in December 2009, the TAC initiated a discussion of exploring grant and loan opportunities to assist in funding the RSWSP and the development of an Integrated Regional Water Management Plan (IRWMP) in order to qualify for such grants and loans, and

WHEREAS, on March 24, 2010, a Joint Agency Council Workshop was held to provide information on the RSWSP including project history, project value and next steps needed to move forward, including sharing costs to develop an IRWMP, and

WHEREAS, City staff recommends approving a Cost Sharing Agreement between the Cities of Ceres, Hughson, Modesto and Turlock for development of an IRWMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost Sharing Agreement with the cities of Ceres, Hughson, and Turlock to cover costs, including a two-percent (2%) administrative cost of up to $4,312, for development of an Integrated Regional Water Management Plan.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-277

A RESOLUTION APPROVING AN AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR CONSULTANT SERVICES TO PREPARE THE INTEGRATED REGIONAL WATER MANAGEMENT PLAN IN AN AMOUNT NOT TO EXCEED $215,580 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $21,558 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $237,138, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, concurrently heard on June 22, 2010, by Resolution No. 2010-276, the City Council approved a Cost Sharing Agreement between the Cities of Ceres, Hughson, Modesto, and Turlock for the development of an Integrated Regional Water Management Plan (IRWMP), and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and in coordination with the three other cities, a Request for Proposals was sent to a qualified short list of five consultants, of which three responded, and

WHEREAS, a selection committee reviewed the proposals for compliance with the project's scope of work and interviews were conducted with the three firms, and

WHEREAS, based on the proposals and interviews, RMC Water and Environment (RMC), of Walnut Creek, was selected as the most qualified consultant to develop the IRWMP, and

WHEREAS, RMC is very familiar with the region's water resources and has completed a number of IRWMP's throughout the state over the last few years, and

WHEREAS, **Exhibit A** to the consultant agreement outlines RMC's scope of work, and

WHEREAS, the City of Modesto will be the lead agency on the IRWMP effort and will manage the agreement with RMC, and

WHEREAS, City staff recommends approving an agreement with RMC as the City does not have the staffing level or subject matter expertise to prepare the IRWMP, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with RMC Water and Environment for consultant services to prepare the Integrated Regional Water Management Plan in an amount not to exceed $215,580 for the identified scope of services, plus $21,558 for additional services (if needed), for a maximum total amount of $237,138.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Scope of Work

Our scope of work for achieving the goals of the IRWM planning effort is outlined below. This scope is divided into three distinct phases to facilitate implementation. However, tasks and activities from each phase can be readily combined or exchanged in response to changes made by DWR to the final IRWM program guidelines or recommendations made by the City for other reasons.

- Phase I
    - Task 1: Establish Regional Water Management Group
    - Task 2: Region Acceptance Process
    - Task 3: Phase I Project Management
- Phase II
    - Task 4: Initial IRWMP Development Management Group
    - Task 5: IRWMP Projects
    - Task 6: IRWMP Preparation
    - Task 7: Phase II Project Management
- Phase III
    - Task 8: Planning Grant Application

Phase I

Phase I consists of the tasks required to initiate the Integrated Regional Water Management Planning (IRWMP) process. First and foremost, Modesto and other interested agencies and cities must formally establish the Regional Water Management Group and define their associated IRWM region. In order to be eligible to apply for funding through the Proposition 84 IRWM process, they must have the region approved by DWR.

Task 1: Establish Regional Water Management Group

Subtask 1.1: Define RWMG

The Region Acceptance Process (RAP), discussed in more detail in Task 2, requires discussion of the Regional Water Management Group (RWMG) responsible for overseeing development and implementation of the region's IRWMP. The form and format for RWMG and governance structure development and operation vary with region and there are multiple examples from which the cities can draw information in order to develop the best RWMG structure for its new region. RMC's approach to facilitating development of an effective RWMG includes the following:

- Comprehensive review of pros and cons of the various RWMG alternatives to ensure that the most effective and appropriate structure is selected for the region

- Early involvement of public and other key stakeholders to establish support for the IRWMP process
- Ensure participation by a diverse group of stakeholders to ensure a broad range of water management interests are represented in the process.

Determining a governance structure is not only a requirement for region acceptance through RAP, but it will ensure effective communication and progression forward during development of the IRWMP and beyond. It will be important to establish a governance structure—including ground rules and communication pathways to the RWMG—that is inclusive and transparent. The governance structure should consider decision making practices for:

- Establishing IRWMP goals and objectives
- Implementing plan activities
- Soliciting and prioritizing projects
- Revising the IRWMP in the future
- Financing RWMG activities
- Hiring and managing consultants

The governance structure includes not only how decisions are made, but who is involved in making those decisions. A balance must be maintained in which various parties are engaged in the process, regardless of their ability to contribute financially; public workshops and the development of the advisory committee will help ensure this.

RMC understands that the RWMG will include the Cities of Modesto, Ceres, Hughson, and Turlock, but the public must be allowed to participate in the IRWM process. Public participation is a key element of IRWMP and must begin with the initial conception of the Regional Water Management Group (RWMG). Participation early in the development process provides individuals in the public a sense of ownership in the process and development of the plan. A portion of the Region Acceptance Process, discussed in more detail in Task 2, is to document that stakeholders, including disadvantaged and Native American communities, are invited to participate in the IRWM process.

As part of Task 1, RMC will meet with the cities to present various alternatives for RWMG structure and governance. Based on RMC experience, RMC will present different RWMG governance structures, and will apply lessons learned to help Modesto, Ceres, Hughson and Turlock identify the RWMG structure that is most appropriate for the region. RMC will summarize the basis for the selected RWMG governance structure in a brief memorandum that will later serve as a section in the RAP submittal. A draft memorandum will be provided to the steering committee for review, following which RMC will finalize the document based on comments received.

Once a format for the RWMG structure has been formulated, RMC will facilitate an initial public workshop, budgeted under Subtask 3.1 to notify interested parties that the RWMG is developing an Integrated Regional Water Management Plan (IRWMP), to educate stakeholders and interested parties in the IRWM process, and to solicit future participation in the RWMG governance organization.

As Part of Task 1, RMC will develop a proposed list of advisory committee members for review, discussion, and input by the four cities. It is anticipated that the advisory committee would likely be made up of representatives from the water supply, wastewater, recycling, stormwater management, flood control, and environmental conservation sectors. The RWMG may also consider inviting members of the public at-large, chamber of commerce, business and industry, farm bureau, regulatory agencies, adjacent IRWM regions, and other interested parties. Special consideration should be made in inviting representatives of DAC and Native American Communities to join the advisory committee.

Upon confirmation of the appropriate stakeholders, RMC will develop a contact list for each of the stakeholders, coordinate inviting members to join the advisory committee and modify the list of members based on replies.

It is anticipated that the advisory committee will meet periodically (e.g., on bimonthly basis), when necessary to support development of the IRWMP and funding applications. These meetings are important to maintaining ongoing communication between the RWMG and the primary stakeholder group. In addition, these meetings are critical to gathering input needed from the advisory committee to make key program decisions. To assist with these meetings, RMC will establish Principles of Participation for advisory committee members as it relates to meeting conduct and speaker recognition. RMC will also develop Roles and Responsibilities for advisory committee members so they understand the importance of their role in decision-making.

RMC will provide drafts of both documents to the RWMG for review prior to finalizing.

Subtask 1.1 Deliverables:

- Draft and Final Governance Structure memorandum
- Draft and Final advisory committee invitation list and email contact list
- Draft and Final Principles of Participation for the advisory committee
- Draft and Final Roles and Responsibilities for the advisory committee

Subtask 1.2: Define RWMG Coordination Activities

Outreach and Communications Plan

RMC will prepare a Stakeholder Outreach and Communications Plan identifying a proposed methodology and approach to ensure dissemination of information associated with preparation and implementation of an IRWMP. The Outreach and Communications Plan will contain a special focus on outreach to disadvantaged communities (DACs), environmental justice (EJ) representatives, Native American tribes, and conservation organizations. Further, the Outreach and Communications Plan will define the general topics and timing of stakeholder workshops necessary to develop the IRWMP. In general, RMC finds that general stakeholder workshops are best held on a quarterly basis.

As part of this task, the RMC team will work with RWMG to identify disadvantaged communities in the Region. Once these communities have been identified, RMC will work with the RWMG to contact and obtain DAC and EJ representatives in the Region.

Inter-Regional Dialogue

This subtask will also include initiating dialogue with existing IRWM regions surrounding the potential region. The existing regions directly adjacent to the potential region include:

1. Central California
2. Eastern San Joaquin
3. Merced
4. Mokelumne/Amador/Calaveras
5. Tuolumne/Stanislaus
6. Westside – San Joaquin

The governance structure will take into account communication, resolving conflicts, and coordinating inter-regional projects with surrounding regions.

Subtask 1.2 Deliverables:

- List of DACs and representatives in the region
- Draft and Final Outreach and Communications Plan

Task 2: Region Acceptance Process

In anticipation of an accepted IRWM region, RMC will prepare and submit a Region Acceptance Process (RAP) application to DWR for 'official' recognition of the region.

Subtask 2.1: Identify Water Management Issues

RMC will collect information sources in support of the specific data needs outlined in the Final RAP Program Guidelines. Available Geographic Information Systems (GIS) data layers from the cities will be required in order to develop the regional boundary and prepare necessary maps for the RAP submittal. RMC will need to gather other information as well, such as information related to groundwater basins, population density, land cover, adjacent IRWM regions, and water management within the region. RMC will develop a list of requested information that will be required to develop the RAP submittal including the report and associated maps. Examples of information requests include, but are not limited to:

- Integrated Regional Groundwater Management Plan for the Modesto Subbasin (2005)
- City of Modesto/Modesto Irrigation District Joint Urban Water Management Plan 2005 Update (2007)
- City of Modesto 2010 Water System Engineer's Report Draft Program Environmental Impact Report (2009) City of Modesto 2010 Water System Engineer's Report (2009)
- Hughson General Plan (2005)
- City of Ceres General Plan (1997)

- Northeast Turlock Master Plan (2004)
- North Turlock Master Plan (2001)
- Turlock Groundwater Basin Draft Groundwater Management Plan (2008)

RMC will review the planning documents and studies that are available to serve as background and foundation documents for the Modesto IRWMP; review of these documents will help RMC identify and become familiar with potential water-related issues within the region. RMC will meet with the advisory committee to identify issues and conflicts within the region that should be addressed in the IRWMP; the meeting will also allow for introduction to the governance structure of the RWMG including a description of the steering committee and advisory committee, Principles of Participation of the advisory committee, and Roles and Responsibilities of the advisory committee. This meeting is budgeted under Subtask 3.1.

Subtask 2.1 Deliverables:

- List of information requests

Subtask 2.2: Prepare RAP Submittal

RMC will prepare a Draft RAP Submittal clearly addressing DWR reviewer's information needs identified in Table 1 of the Final RAP Guidelines. The primary topics that must be included in the RAP materials include, but are not limited to:

1. Composition of the RWMG including who the members are, other participants in developing and implementing the IRWMP, and a description of the working relationship between the RWMG and stakeholders
2. Stakeholder participation, including how stakeholders, including DACs are invited to participate
3. Public outreach
4. The Region's governance structure
5. The regional boundary
6. History of the IRWM efforts in the region, regional water management issues, and conflicts in the region
7. Relationships & coordination with nearby IRWM regions

RMC will develop a report covering the topics listed above and will incorporate the RWMG and governance documents prepared under Task 1 into the RAP application documentation for submittal to DWR, as well as the water management issues identified during Subtask 2.1 As part of the submittal, RMC will prepare maps using the GIS layers obtained in Subtask 2.1. The purpose of the maps will be to effectively describe the regional boundary's relationship to other boundaries such as political boundaries. RMC envisions the IRWM region to fill in the gap created by the surrounding regions. There is a clear need for integrated planning within this area and the boundaries would be clearly defined.

The Draft RAP Submittal will be provided to the RWMG for review. RMC will facilitate a meeting with the RWMG to review the RAP requirements, obtain input on specific language to be used for some of the submittal

responses, and discuss comments on the draft RAP submittal. The meeting with the steering committee will be conducted via conference call, while the meeting with the advisory committee will be face-to face; these meetings will ensure an accurate representation of the region and the RWMG to DWR. The conference call and meeting are budgeted under Task 3.1. RMC will then finalize the RAP submittal based on comments received from the RWMG and provide copies to DWR for review and approval.

Subtask 2.2 Deliverables:

- One electronic copy (.PDF) of the Draft RAP Submittal for RWMG review.
- DWR required Final RAP Submittal of 3 hard copies and 5 electronic copies in Microsoft Word on 5 CDs. Maps will be submitted on a separate CD with UTM Zone 10, NAD 27 format.
- One hard copy and one electronic copy of all materials submitted to DWR for the RWMG.

Subtask 2.3: DWR Coordination

In order to be eligible to apply for Proposition 84 IRWM grant funds, acceptance and approval of the IRWM region by DWR is required. Submittals for the first RAP were due April 29, 2009. Although DWR stated they will conduct RAP on at least an annual basis, the timing of the next RAP and associated deadlines are unknown at this time. Because Modesto and the partnering cities of Ceres, Hughson and Turlock must have an approved region prior to applying for IRWM grant funding, it is imperative that dialogue between DWR and the RWMG begins immediately.

As part of this task, RMC will coordinate with DWR to determine if and when another RAP will take place, or if there is the possibility that DWR could review the RAP application prior to the implementation grant funding cycle. RMC understands from its on-going communications with DWR that staffing availability is the primary limitation to RAP application review; therefore, RMC has planned implementation of this task and the scope of work, to best coincide with anticipated lulls in staff loading at DWR in anticipation of negotiating DWR's review. This subtask also includes RMC's participation in a meeting with the RWMG and DWR to discuss the RAP submittal.

Subtask 2.3 Deliverables:

- Meeting notes from telephone calls with DWR and/or other sources of communication

Task 3: Phase I Project Management

Subtask 3.1: Phase I Meetings and Workshops

RMC will have an initial kickoff meeting with the City of Modesto, and if directed by the City, with other possible members of the RWMG, to review the scope, budget, and RMC's approach. The kickoff meeting will establish lines of communication, confirm overall project goals and expectations, identify project roles, obtain and discuss available documents and information for use in completing the project, and define a strategy for completing the project within the proposed schedule. This task will include on-going support to the City and RWMG.RMC will

implement the organization, coordination, and facilitation of stakeholder meetings (also referred to as public workshops). The intent of these meetings is to provide stakeholders with an opportunity to provide input into the process and ensure their views are heard, and when possible, incorporated into the process. It is anticipated that RMC's role will include, but not be limited to:

- Preparing and sending out public meeting notices and invitations(either electronic and/or paper invitations) for publication and distribution to a variety of stakeholder groups identified by the RWMG and through other means
- Preparing and maintaining an electronic database of all potential stakeholders including at a minimum, their contact information, organizational affiliation, and record of meeting attendance
- Preparing PowerPoint presentations and customizing them to applicable stakeholder groups if deemed warranted by the RWMG
- Providing meeting facilitation services for a variety of stakeholder outreach meetings, as directed by the RWMG
- Preparing meeting handouts and materials, as directed by the RWMG
- Preparing a comment/feedback questionnaire to be distributed at the meetings
- Compiling public responses obtained during the meetings and summarizing key points and themes
- Preparing and disseminating meeting minutes to all stakeholders no later than two weeks from the meeting dates

All meeting-specific deliverables (i.e., notices, agendas, presentations, and meeting notes) for each Phase are budgeted by associated task in that Phase, including Subtasks 3.1 and 7.1. Therefore, the various meetings mentioned throughout Phase I are budgeted under Subtask 3.1. These meetings include:

1. One public workshop to notify interested parties that the RWMG is developing an IRWMP, to educate stakeholders and interested parties in the IRWM process, and to solicit future participation in the RWMG governance organization (Subtask 1.1).
2. Two meetings with the advisory committee; one will be to identify water management issues, review the governance structure, and ground rules, and one meeting to discuss the draft RAP submittal (Subtasks 2.1 and 2.2).
3. One meeting with the steering committee, held via conference call, to discuss comments on the draft RAP submittal (Subtask 2.2).

Subtask 3.1 Deliverables:

- Meeting agendas and handouts, conference call-in information (when necessary), meeting notes
- Electronic database of all potential stakeholders

- Assumptions: Facilities for advisory committee meetings and public workshops will be arranged by RWMG members. Workshops would be held at variable times of day (some evenings and weekends) and in different geographic locations within the Region.

Subtask 3.2: Phase I Project Management, Invoices, Progress Reports

Under this task, RMC will monitor progress of Phase I. RMC will prepare monthly progress reports and invoices for the contract manager and the RWMG that report on the scope, cost and schedule status of the project. In Phase I, up to two invoices and progress reports will be prepared.

Subtask 3.2 Deliverables:

- Monthly progress report and invoice
- Assumption: Includes project management for two months (July to August 2010).

Phase II

Phase II encompasses the required steps leading up to the IRWMP formation through preparation of the IRWMP. Specifically, this phase involves coordination of regional goal setting, development of a project identification, prioritization, and ranking process for the IRWM program, as well as compilation of all work-to-date into a completed IRWMP for the Region.

Task 4: Initial IRWMP Development

Subtask 4.1: Define IRWM Goals, Objectives, and Priorities

RMC will support the RWMG in identifying regional IRWM program goals, objectives, and priorities. Goals setting will be the highlight of an advisory committee meeting, as needed to reach consensus, budgeted under Subtask 7.1. The basis for determining the goals, objectives, and priorities will have been outline through the development of the governance structure in Subtask 1.2.

Subtask 4.1 Deliverables:

- Draft and final goals, objectives and priorities summary.

Subtask 4.2: Targeted Outreach to Disadvantaged *Communities* and Tribes

The RMC team will conduct targeted outreach to the tribal and other special interest groups within the IRWM Region to understand and focus their water management related issues and needs. We will also prepare and facilitate one meeting with tribes and other special interest groups, targeted at identifying and documenting the major issues and priorities of those communities. Additionally, coordinated individual meetings with tribal leaders and staff will be held if needed.

Subtask 4.2 Deliverables:

- One DAC / EJ outreach meeting and one meeting with tribes, including meeting agendas and handouts, presentations (if applicable), coordination of speakers/presenters (if applicable), meeting notes
- Assumptions: Assumes two in-person meetings with DACs and tribes. Facilities for general public meetings and DAC / EJ meetings will be arranged by RWMG members and/or DAC / EJ representatives

Subtask 4.3: IRWM Website Development and Maintenance

This task will include developing a new program website for use in disseminating IRWM program information to a wide audience. This task will also include approximately bi-monthly updates to the website to maintain current meeting information and post project updates, press releases, meeting materials, and other items of interest.

Subtask 4.3 Deliverables:

- Draft and final content for the IRWMP website
- Approximately bi-monthly updates, including upload of meeting agendas, handouts, presentations, and notes from public workshops and advisory committee meetings
- Assumptions: The domain name will be owned by, and the site hosted by, a RWMG agency and will be renewed by the RWMG, if necessary.

Task 5: IRWMP Projects

Subtask 5.1: Develop and Implement Project Solicitation Process

RMC will develop and implement a project solicitation process to gather potential projects for the IRWMP and associated grant applications. RMC will develop a project information template that provides the RWMG with the necessary information to understand, rank and prioritize individual project and programs in the IRWMP. RMC will also provide a schedule and work plan for project solicitation.

The project solicitation process will be implemented by distributing the Project Information Template to interested stakeholders via electronic and/or paper format, as appropriate. This outreach process will include the DACs, EJ representatives, tribes, and conservation organizations previously identified. Following receipt of the project information, RMC will develop a project database that contains relevant information on every submitted project for use in the prioritization and ranking processes.

Subtask 5.1 Deliverables:

- Draft and final project solicitation work plan, including schedule
- Draft and final Project Information Template
- Compiled database of projects submitted for IRWMP (Excel format)

Subtask 5.2: Develop IRWMP Project Prioritization Process

RMC will work with the RWMG to develop and document a project selection approach, methodology and process. The project prioritization process will form the basis for projects submitted for inclusion in the IRWMP. Based on the Draft Proposition 84 IRWM Guidelines released by DWR in March 2010, the project prioritization process may consider the following factors:

1. If the projects are consistent with the IRWMP's goals and objectives, established in Subtask 4.3
2. How the projects are related to resource management strategies selected for use in the IRWMP
3. Technical feasibility of the project
4. Specific benefits to DACs
5. EJ considerations
6. Project costs and financing
7. Economic feasibility, including benefits to water quality and water supply
8. Project status
9. Strategic consideration for IRWMP implementation
10. Contribution of the projects to reducing greenhouse gas emissions and adapting to the effects of climate change

This task will include working in conjunction with steering committee members to finalize the process and establish final weights in the prioritization process.

Subtask 5.2 Deliverables:

- Draft and final project prioritization process for IRWMP

Subtask 5.3: Develop IRWMP Project Rank List

RMC will apply the approved prioritization process from Subtask 5.2 to all the listed projects, and draft evaluations describing how the established process impacted each project's ranking. This task will include working in conjunction with RWMG members to compile a draft and final project priority list for grant application purposes. RMC will facilitate a workshop with the advisory committee, budgeted under Subtask 7.1, to review the projects, prioritization process and project rankings. Based on input from the advisory committee, RMC will finalize the project ranking list.

Subtask 5.3 Deliverables:

- Draft and final project evaluations for all submitted projects
- Draft and final project ranking list

Subtask 5.4: Assessment of Project Integration and Implementation

Following development of the draft and final project ranking lists, RMC will assess the projects with an eye towards integration and enhancement, such that the maximum benefits are achieved by the projects. RMC will then prepare a written assessment of the overall IRWMP benefits that will be achieved through project integration and implementation. This assessment will identify projects that offer the greatest synergies in integrated water management. This assessment will also be included within the IRWMP document and on the IRWMP website to illustrate the added value of integrated regional planning.

Subtask 5.4 Deliverables:

- Draft and final Assessment of Project Integration and Implementation

Task 6: IRWMP Preparation

Subtask 6.1: Prepare Draft IRWMP

RMC will prepare an administrative draft IRWMP to be submitted to the RWMG for review. The IRWMP will be in compliance with DWR's IRWMP specifications, including the final guidelines that will be released in 2010. The administrative draft IRWMP will contain the following required components as outlined in the draft Proposition 84 IRWM Guidelines:

- Governance
- Impacts and Benefits
- Habitat Improvement
- Relation to Local Water Planning
- Region Description
- Increase Water Supply
- Flood Management
- Relation to Local Land Use Planning
- Objectives
- Water Quality Improvement
- Plan Performance
- Stakeholder Involvement
- Monitoring
- Data Management
- Groundwater Improvements
- Resource Management Strategies

- Coordination within the Region and with neighboring IRWM Regions
- Water Conservation and Reuse
- Integration
- Finance
- Project Review Process
- Climate Change
- Watershed Rehabilitation
- Technical Analysis

As part of the Plan preparation process, RMC will document how the Plan meets State goals and priorities. The Plan will contain a clear description outlining the location of all content as required by DWRs' IRWMP Guidelines. The IRWMP will also clearly articulate steps for evaluation and measurement of Plan success.

RMC will host a meeting with the advisory committee to receive feedback on the administrative draft IRWMP, present Plan changes in response to comments, and solicit agreement from RWMG parties on the proposed changes; this meeting is budgeted under Subtask 7.1. RMC will compile all RWMG comments into a response to comment matrix for discussion.

Based on one round of RWMG review and comments, RMC will prepare a public review draft IRWMP for review and consideration by the RWMG and stakeholders. RMC will then hold one public workshop to present and discuss the draft IRWMP, budgeted under Subtask 7.1. We will facilitate review and discussion of the draft Plan with stakeholders, including collecting and compiling their comments into a comments matrix for RWMG review.

Subtask 6.1 Deliverables:

- Administrative and public review draft IRWMP, in accordance with State Guidelines and RWMG needs
- Two additional RWMG meetings, as needed
- Compiled response to comments matrix from RWMG, advisory committee, and stakeholders
- Assumptions: RMC will submit the administrative draft in electronic format (.PDF) to the RWMG and print four hard copies, one for each city, of the public review draft. Production of any additional hard copy versions will be done by the RWMG if desired.

Subtask 6.2: Prepare Final IRWMP

During a conference call with the steering committee, RMC will review comments on the public review draft IRWMP, present Plan changes in response to comments, and solicit agreement from RWMG parties on the proposed changes. Based on the comments reviewed from the advisory committee and general public, RMC will prepare a draft final IRWMP to be submitted to the RWMG for one more round of review. RMC will finalize the

Plan and provide assistance with Plan adoption. Each member of the RWMG must adopt the Plan; it is assumed the council/board meetings held for Plan adoption will be open to the public.

Subtask 6.2 Deliverables:

- Draft final and final IRWMP
- Assumptions: RMC will submit the draft final in electronic format (.PDF) to the RWMG and print four hard copies, one for each city, of the final version. Production of any additional hard copy versions will be done by the RWMG if desired.

Task 7: Phase II Project Management

Subtask 7.1: Phase II Meetings and Workshops

Upon completion of Phase I, the RWMG will have an established set of ground rules that will guide decision-making for the IRWM program. It is suggested the steering committee meet on a monthly basis. To use the group's time effectively, RMC proposes that the majority of meetings be held via conference call; RMC has budgeted for three face-to-face meetings with the steering committee. These meetings are critical to maintaining ongoing communication among steering committee members. This task will include continued support of the RWMG, including preparation for, facilitation of, and participation in monthly steering committee meetings.

Throughout Phase II, there will be three meetings with the advisory committee, in addition to the monthly meetings with the steering committee. As important as the advisory committee will be to the IRWM program's legitimacy, other stakeholders and the general public who were not chosen to represent water management interests on the advisory committee will also need to be involved in the IRWM program. A public workshop will be held to engage this larger group of stakeholders, disadvantaged communities (DACs), conservation organizations, businesses, and the general public. These workshops are important for getting information out about the IRWM program to a larger audience than agency staffers.

Under Subtask 7.1, RMC has budgeted to facilitate a total of 4 meetings for Phase II, in addition to the monthly steering committee conference calls. These meetings include:

1. Three meetings with the advisory committee; one to reach a consensus on the IRWMP goals, objectives, and priorities (Subtask 4.1), one to review the projects, prioritization process and project rankings (Subtask 5.3), and one to discuss the administrative draft of the IRWMP (Subtask 6.1).
2. One public workshop to solicit for comments on the draft IRWMP (Subtask 6.1).

Subtask 7.1 Deliverables:

- Coordination and facilitation of three advisory committee meetings and one public workshop
- Meeting agendas and handouts, presentations (if applicable), coordination of speakers/presenters (if applicable), and meeting notes

Subtask 7.2: Phase II Project Management, Invoices, Progress Reports

Under this task, RMC will monitor progress and performance. RMC will prepare monthly progress reports and invoices for the contract manager and the RWMG that report on the scope, cost and schedule status of the project. In Phase II, up to four invoices and progress reports will be prepared. On-going project management services will be provided to the City and RWMG under this subtask.

Subtask 7.2 Deliverables:

- Monthly progress report and invoice
- Assumption: Includes project management for 12 months (August 2010 to July 2011).

Phase III

Phase III will include the necessary tasks to aid the City of Modesto and the RWMG take advantage of implementation grant opportunities under Proposition 84.

Task 8: Grant Application

Although the schedule for both planning and implementation grant proposal solicitation by DWR is unknown at this time, RMC believes if the City of Modesto can expedite Phase I and II, they may be eligible to apply for the first round of planning grant monies. In order to submit a planning grant application, Modesto would need an approved region and RWMG.

Subtask 8.1: Prepare Planning Grant Application

RMC will prepare the Planning Grant Application in accordance with DWR's application submittal guidelines, using information developed from the RAP Submittal and input from the RWMG. RMC will also assist the RWMG in preparing for funding discussions with DWR staff. This task will include, but not be limited to:

- Coordinating, organizing, and participating in a public workshop with the RWMG and State agencies in order to solicit input and ensure grant application compliance
- Preparing and maintaining a project schedule noting key project milestones, meetings, and deadlines to ensure timely submittal of the grant application and for stakeholder outreach purposes
- Compiling and producing all data and information needed for grant application submittal
- Preparing and providing one electronic draft copy of the Planning Grant Application to the RWMG for review
- Submitting a final, revised copy of the Planning Grant Application to the project manager prior to final document production and submittal to the state agencies
- Submitting the Grant Application, including figures and appendices using BMS as requested by DWR

Subtask 8.1 Deliverables:

- Draft and final Planning Grant Application
- Assumptions: RMC will submit the draft application in electronic format (.PDF) and print four hard copies of the final grant application. Production of additional hard copy versions will be done by the RWMG.

Task Name	Duration	Start	Finish
Modesto IRWMP	**239 days**	**Thu 7/1/10**	**Tue 5/31/11**
Phase I	**43 days**	**Thu 7/1/10**	**Mon 8/30/10**
Task 1: Establish Regional Water Management Group	**20 days**	**Thu 7/1/10**	**Wed 7/28/10**
1.1: Define RWMG	10 days	Thu 7/1/10	Wed 7/14/10
1.2: Define RWMG Coordination Activities	10 days	Thu 7/15/10	Wed 7/28/10
Task 2: Region Acceptance Process	**42 days**	**Thu 7/1/10**	**Fri 8/27/10**
2.1: Identify Water Management Issues	10 days	Thu 7/29/10	Wed 8/11/10
2.2: Prepare RAP Submittal	12 days	Thu 8/12/10	Fri 8/27/10
2.3: DWR Coordination	42 days	Thu 7/1/10	Fri 8/27/10
Task 3: Phase I Project Management	**42 days**	**Thu 7/1/10**	**Fri 8/27/10**
3.1: Phase I Meetings and Workshops	**38 days**	**Thu 7/1/10**	**Mon 8/23/10**
Kickoff Meeting	1 day	Thu 7/1/10	Thu 7/1/10
Public Workshop	1 day	Thu 7/29/10	Thu 7/29/10
Advisory Committee Meeting - Identify Water Management Issues	1 day	Thu 8/5/10	Thu 8/5/10
Advisory Committee Meeting - Discuss Draft RAP Submittal	1 day	Mon 8/23/10	Mon 8/23/10
3.2: Phase I Project Management, Invoices, Progress Reports	42 days	Thu 7/1/10	Fri 8/27/10
DWR Approves Region	1 day	Mon 8/30/10	Mon 8/30/10
Phase II	**214 days**	**Thu 8/5/10**	**Tue 5/31/11**
Task 4: Initial IRWMP Development	**212 days**	**Thu 8/5/10**	**Fri 5/27/11**
4.1: Define IRWM Goals, Objectives, and Priorities	15 days	Thu 8/5/10	Wed 8/25/10
4.2: Targeted Outreach to Disadvantaged Communities and Tribes	**212 days**	**Thu 8/5/10**	**Fri 5/27/11**
On-going Outreach	212 days	Thu 8/5/10	Fri 5/27/11
Meeting with DAC Representative	1 day	Thu 8/19/10	Thu 8/19/10
Meeting with Native American Tribe Representative	1 day	Thu 8/19/10	Thu 8/19/10
4.3: IRWM Website Development and Maintenance	212 days	Thu 8/5/10	Fri 5/27/11
Task 5: IRWMP Projects	**85 days**	**Thu 8/26/10**	**Wed 12/22/10**
5.1: Develop and Implement Project Solicitation Process	20 days	Thu 8/26/10	Wed 9/22/10
5.2: Develop IRWM Plan Project Prioritization Process	20 days	Thu 9/23/10	Wed 10/20/10
5.3: Develop IRWM Plan Project Rank List	25 days	Thu 10/21/10	Wed 11/24/10
5.4: Assessment of Project Integration and Implementation	20 days	Thu 11/25/10	Wed 12/22/10
Task 6: IRWMP Preparation	**195 days**	**Mon 8/30/10**	**Fri 5/27/11**
6.1: Prepare Draft IRWMP	120 days	Mon 8/30/10	Fri 2/11/11
6.2: Prepare Final IRWMP	55 days	Mon 3/14/11	Fri 5/27/11
Task 7: Phase II Project Management	**214 days**	**Thu 8/5/10**	**Tue 5/31/11**
7.1: Phase II Meetings and Workshops	**204 days**	**Thu 8/19/10**	**Tue 5/31/11**
Monthly SC Meetings/Conference Calls	**194 days**	**Thu 9/2/10**	**Tue 5/31/11**

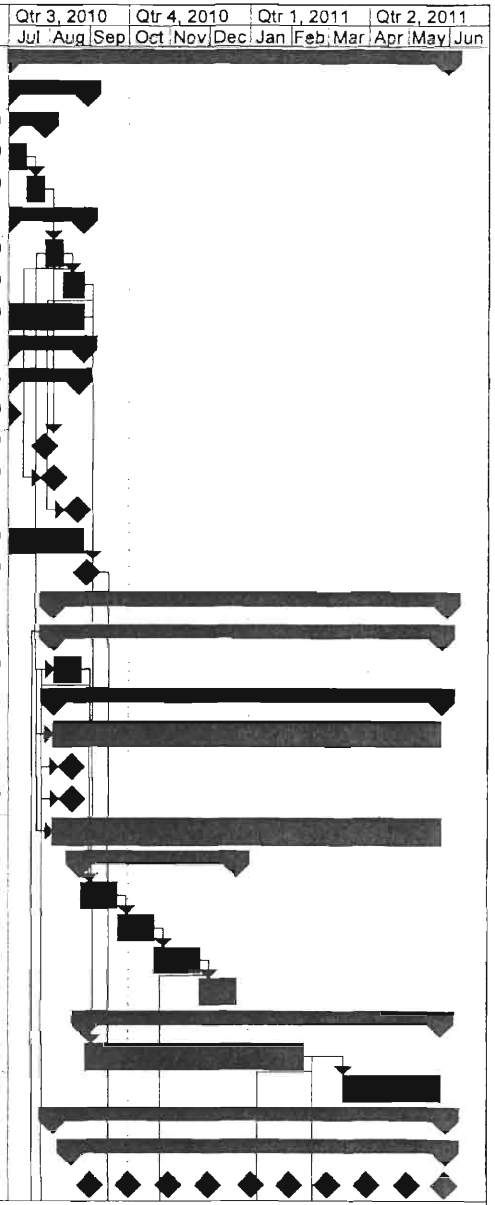


EXHIBIT A

Task Name	Duration	Start	Finish
Advisory Committee Meeting - Goals & Objectives	1 day	Thu 8/19/10	Thu 8/19/10
Advisory Committee Meeting - Project Rankings	1 day	Thu 11/18/10	Thu 11/18/10
Advisory Committee Meeting - Draft IRWMP	1 day	Mon 1/31/11	Mon 1/31/11
Public Workshop	1 day	Mon 2/14/11	Mon 2/14/11
7.2: Phase II Project Management, Invoices, Progress Reports	212 days	Thu 8/5/10	Fri 5/27/11
Phase III	**30 days**	**Tue 8/31/10**	**Mon 10/11/10**
Task 8: Grant Applications	**30 days**	**Tue 8/31/10**	**Mon 10/11/10**
8.1: Prepare Planning Grant Application	30 days	Tue 8/31/10	Mon 10/11/10

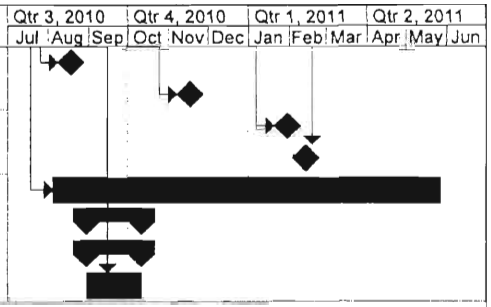


EXHIBIT A

RMC
Water and Environment

Fee Estimate

City of Modesto
Modesto Integrated Regional Water Management Plan

PHASES	Tasks	RMC Labor										Public Outreach and Economic Support					ODCs		Total
		Lyndal Melton	Dave Richardson	Leslie Dumas	Lindsey Clark	Project Engineer	Tim Harrison	Graphics	Admin	Total Hours	Total Labor Costs (1)	Cardoza & Associates, Inc.	M.Cubed	O'Dell Engineering	Subtotal	Sum Consultant Total Cost (2)	ODCs	Total ODCs (3)	Total Fee
		PIC	Project Manager	Deputy PM	IRWMP/ Grant App	IRWMP/ Grant App	Water Resources	Graphics and Support				Public Process	Economics	Cost Estimating					
		$235	$235	$205	$165	$175	$195	$115	$95										
PHASE I: July - Aug 2010	**Task 1: Establish Regional Water Management Group**																		
	1.1: Define RWMG	2	4	6	24					36	$6,600				$0	$0	$0	$0	$6,600
	1.2: Define RWMG Coordination Activities		4	10	12					26	$4,970				$0	$0	$0	$0	$4,970
	Subtotal Task 1:	2	8	16	36	0	0	0	0	62	$11,570	$0	$0	$0	$0	$0	$0	$0	$11,570
	Task 2: Region Acceptance Process																		
	2.1: Identify Water Management Issues	2	3	4	4		8			21	$4,215				$0	$0	$0	$0	$4,215
	2.2: Prepare RAP Submittal		2	4	20				2	28	$4,780				$0	$0	$0	$0	$4,780
	2.3: DWR Coordination	2	3	8						13	$2,815				$0	$0	$0	$0	$2,815
	Subtotal Task 2:	4	8	16	24	0	8	0	2	62	$11,810	$0	$0	$0	$0	$0	$0	$0	$11,810
	Task 3: Phase I Project Management																		
	3.1: Phase I Meetings and Workshops	2	8	18	4					32	$6,700	$1,000			$1,000	$1,100	$400	$440	$8,240
	3.2: Phase I Project Management, Invoices, Progress Reports		4	2	4				2	12	$2,200				$0	$0	$0	$0	$2,200
	Subtotal Task 3:	2	12	20	8	0	0	0	2	44	$8,900	$1,000	$0	$0	$1,000	$1,100	$400	$440	$10,440
	SUBTOTAL PHASE I:	**8**	**28**	**52**	**68**	**0**	**8**	**0**	**4**	**168**	**$32,280**	**$1,000**	**$0**	**$0**	**$1,000**	**$1,100**	**$400**	**$440**	**$33,820**
PHASE II: Aug 2010 - June 2011	**Task 4: Initial IRWMP Development**																		
	4.1: Define IRWM Goals, Objectives, and Priorities		4	12	8					24	$4,720				$0	$0	$0	$0	$4,720
	4.2: Targeted Outreach to Disadvantaged Communities and Tribes		2	6						8	$1,700	$2,000			$2,000	$2,200	$200	$220	$4,120
	4.3: IRWM Website Development and Maintenance			2	12			24	0	38	$5,150				$0	$0	$0	$0	$5,150
	Subtotal Task 4:	0	6	20	20	0	0	24	0	70	$11,570	$2,000	$0	$0	$2,000	$2,200	$200	$220	$13,990
	Task 5: IRWMP Projects																		
	5.1: Develop and Implement Project Solicitation Process		8	12	32	8				60	$11,020				$0	$0	$0	$0	$11,020
	5.2: Develop IRWM Plan Project Prioritization Process		8	12	32	16				68	$12,420	$1,000	$500		$1,500	$1,650	$0	$0	$14,070
	5.3: Develop IRWM Plan Project Rank List		10	16	48	16	14	4		108	$19,540		$1,000	$4,000	$5,000	$5,500	$0	$0	$25,040
	5.4: Assessment of Project Integration and Implementation		4	8	8					20	$3,900				$0	$0	$0	$0	$3,900
	Subtotal Task 5:	0	30	48	120	40	14	4	0	256	$46,880	$1,000	$1,500	$4,000	$6,500	$7,150	$0	$0	$54,030
	Task 6: IRWMP Preparation																		
	6.1: Prepare Draft IRWMP		16	24	100	48	60	32	8	288	$49,720		$6,000	$2,000	$8,000	$8,800	$800	$880	$59,400
	6.2: Prepare Final IRWMP	2	4	12	20	16	24	12	8	98	$16,790		$2,000	$1,000	$3,000	$3,300	$800	$880	$20,970
	Subtotal Task 6:	2	20	36	120	64	84	44	16	386	$66,510	$0	$8,000	$3,000	$11,000	$12,100	$1,600	$1,760	$80,370
	Task 7: Phase II Project Management																		
	7.1: Phase II Meetings and Workshops	4	8	30	18				2	62	$12,130				$0	$0	$700	$770	$12,900
	7.2: Phase II Project Management, Invoices, Progress Reports		2	4	12				12	30	$4,410				$0	$0	$0	$0	$4,410
	Subtotal Task 7:	4	10	34	30	0	0	0	14	92	$16,540	$0	$0	$0	$0	$0	$700	$770	$17,310
	SUBTOTAL PHASE II:	**6**	**66**	**138**	**290**	**104**	**98**	**72**	**30**	**804**	**$141,500**	**$3,000**	**$9,500**	**$7,000**	**$19,500**	**$21,450**	**$2,500**	**$2,750**	**$165,700**
PHASE III	**Task 8: Grant Application**																		
	8.1: Prepare Planning Grant Application	2	6	24	24	12	2	2	4	76	$13,860	$1,000		$500	$1,500	$1,650	$500	$550	$16,060
	Subtotal Task 8:	2	6	24	24	12	2	2	4	76	$13,860	$1,000	$0	$500	$1,500	$1,650	$500	$550	$16,060
	SUBTOTAL PHASE III:	**2**	**6**	**24**	**24**	**12**	**2**	**2**	**4**	**76**	**$13,860**	**$1,000**	**$0**	**$500**	**$1,500**	**$1,650**	**$500**	**$550**	**$16,060**
	PROJECT TOTAL	**16**	**100**	**213**	**382**	**116**	**108**	**74**	**38**	**1046**	**$187,640**	**$5,000**	**$9,500**	**$7,500**	**$22,000**	**$24,200**	**$3,400**	**$3,740**	**$215,580**

Notes:

1. The individual hourly rates include salary, overhead and profit.
2. Subconsultants will be billed at actual cost plus 10%.
3. Other direct costs (ODCs) such as reproduction, delivery, mileage (rates will be those allowed by current IRS guidelines), and travel expenses, will be billed at actual cost plus 10%.
4. RMC reserves the right to adjust its hourly rate structure and ODC markup at the beginning of the calendar year for all ongoing contracts.
5. Phase 3 schedule is currently undetermined. Budget assumes any Phase 3 meetings, workshops or project management would be conducted in conjunction with those proposed under Phase 1 and 2.

FINANCIAL INTEREST DISCLOSURE FORM
PROJECT: Integrated Regional Water Management Plan

All persons included within the meaning of either of the following tests have a material financial interest in an agreement, or application for development rights, submitted for approval or disapproval by the City Council, and shall be identified by the applicant, by name.

Tests of Materiality:

1. Whether it is foreseeable to a reasonable person that the value of their interest in property available for use by an applicant, or their interest in the applicant itself, may increase or decrease by an amount greater than $2,000.00 as a direct or indirect result of Council action on the applicant's agreement or application for development rights.

2. Whether it is foreseeable to a reasonable person that the person's gross income from the applicant may increase or decrease by a sum greater than $2,000.00 as a direct or indirect result of Council action on the agreement or application for development rights.

It is the legal obligation of all applicants for approval of an agreement or of an application for development rights to verify in writing, under penalty of perjury, that the identity of each person having a material financial interest in the agreement or application or development rights is true, correct and complete. The applicant understands that this information is provided under penalty of perjury, and that intentionally supplying misinformation or deception may result in either invalidation of the agreement or application, or criminal prosecution for misdemeanor violation of the Modesto Municipal Code, or both. Negligent provision of misinformation shall be grounds for invalidation. In accordance with the Modesto Municipal Code, each applicant has a continuing obligation to maintain the truth, accuracy and completeness of the financial interest disclosure information provided below until after final consideration by the City Council of any matter arising out of or relating to the agreement or application.

RMC Water and Environment
BUSINESS NAME

David L Parkinson, Sr. Vice President
APPLICANT SIGNATURE

Questions concerning the application of either test to particular facts should be resolved in advance of Council action by agreement with the department head recommending approval of its agreement/application.

DIRECTOR OF UTILITY PLANNING & PROJECTS

Individuals' Names:

(See attached list)

PROJECT: Integrated Regional Water Management Plan

INDIVIDUALS' NAMES

BUSINESS NAME: RMC Water and Environment

Dave Richardson

Leslie Dumas

Lindsey Clark

Erin Payne

O'Dell Engineering

Dylan Crawford

Jason White

Cardoza & Associates, Inc.

Carrie Cardoza

M. Cubed

David Mitchell

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-278

A RESOLUTION AUTHORIZING THE CITY OF MODESTO WATER FUND TO POST COLLATERAL UP TO $18 MILLION WITH A THIRD-PARTY TRUSTEE UNDER TERMS OF SWAP AGREEMENT WITH JP MORGAN FOR THE MODESTO IRRIGATION DISTRICT REVENUE BONDS RELATED TO THE DEMOSTIC WATER TREATMENT AND DELIVERY SYSTEM

WHEREAS, in May 2007 the Council adopted Resolution 2007-275 approving the issuance of revenue bonds by the Modesto Irrigation Financing Authority related to the financing of Phase 2 of the Domestic Water Treatment and Delivery System of the Modesto Irrigation District., and

WHEREAS, this debt issue included an interest rate SWAP feature with Bear Sterns, which was subsequently acquired by JP Morgan, and

WHEREAS, the purpose of a SWAP is to create a synthetic fixed interest rate that holds each party harmless as the variable interest rate moves up or down, and

WHEREAS, if a SWAP agreement is terminated during a time when interest rates are higher than they were when the City entered into the agreement, then the SWAP counterparty, in this case JP Morgan, would have to pay the City a termination payment, and

WHEREAS, if the SWAP agreement is terminated during a period when interest rates are lower than they were when the City entered into the agreement, then the City would be required to make a termination payment to JP Morgan, and

WHEREAS, due to current economic conditions, interest rates are at their lowest levels when compared to the last 20 years, therefore creating a SWAP termination value of approximately $18 million that the City would be required to pay to JP Morgan, if this agreement was terminated, and

WHEREAS, under the existing SWAP agreement if three conditions exist, then the City can be required to post collateral with an independent trustee to assure JP Morgan's financial interests in the event the agreement is terminated, and

WHEREAS, these conditions include: 1) the credit rating of the bond and SWAP payment insurer (MBIA) must fall below AAA category. Currently, the credit rating for MBIA is in the BBB category. 2) The lowest credit rating for the Modesto Irrigation District revenue bonds is below the AA category. These bonds have a credit rating of AA-/A+. 3) The SWAP agreement Pledger's Threshold against the City is greater than $5 million. Currently, it is approximately $18million, and

WHEREAS, if these three conditions exist, then the City is responsible under the terms of the agreement to post collateral with a third-party trustee, and

WHEREAS, the ownership of this collateral will reside with the City, including any interest earnings, and is used in case the SWAP agreement is terminated and the City failed to pay the termination payment, and

WHEREAS, while these conditions have existed for approximately a year, JP Morgan has not asserted its right to have the City post termination collateral, and

WHEREAS, on June 17, 2010, the City was informed that JP Morgan intended to require the City to post this collateral in the immediate future. JP Morgan, Modesto Irrigation District and the City have tentatively negotiated a revision to the SWAP Agreement which would change the Pledger's Threshold from $5 million to $20 million, and

WHEREAS, in the event that JP Morgan actually requires the City to immediately post collateral under the terms of the current SWAP agreement, staff is seeking Council's

approval to do so for an amount up to $18 million, which is the current termination payment amount, and

WHEREAS, staff intends to bring a report back on July 6, 2010 updating Council on the current status of this situation, the actual amount placed on deposit with the trustee and recommend appropriate action to formalize an agreement to increase the Pledger's Threshold to $20 million.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Water Enterprise Fund to post collateral with a third-party trustee for an amount up to $18 million under terms of a SWAP Agreement with JP Morgan for the Modesto Irrigation District Revenue Bonds related to the Domestic Water Treatment and Delivery System..

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION 2010-279

A RESOLUTION AMENDING THE DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH PETER AND CHARLENE REECE, JOSEPH AND SHERYL PIMENTEL, AND STEPHEN AND KATHLEEN HUGHES FOR THE PAYMENT OF CAPITAL FACILITIES FEES IN THE AMOUNT OF $44,252.46, PLUS INTEREST, IN NO MORE THAN FIVE (5) ANNUAL INSTALLMENTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 28, 2006, Peter A. Reece and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes (Owners) and the City of Modesto (City) entered into a Deferred Payment Agreement and Notice of Lien (Agreement) to defer the payment of Capital Facilities Fees (CFF) in the amount of $138,288.93 for the construction of three commercial buildings located at 3948 Sylvan Avenue, Modesto, CA 95355, and

WHEREAS, Agreement enabled Owners to pay twenty percent (20%) of the total CFF at the time of building permit issuance and pay the remaining eighty percent (80%), plus interest, in no more than five annual installments, and

WHEREAS, on March 15, 2006, Owners paid $27,657.79 (20%) of the total CFF at the time the building permits were issued, and

WHEREAS, on December 21, 2006, Owners paid the first of five installments of the deferred CFF in the amount of $22,512.68, and

WHEREAS, on May 21, 2007, Owners paid the second of five installments of the deferred CFF in the amount of $29,317.56, and

WHEREAS, on June 24, 2008, Owners paid the third of five installments of the deferred CFF in the amount of $27,451.98, and

WHEREAS, on April 6, 2009, Owners requested that the City to defer the fourth and fifth CFF installments due to the economic conditions that precluded them from securing tenants for their buildings, and

WHEREAS, on or about April 27, 2009, City and Owners entered into a Letter Agreement to modify the fourth and fifth installments of the deferred CFF, plus interest, to be due on April 1, 2010 and April 1, 2011 respectively, and

WHEREAS, on March 18, 2010, Owners requested additional assistance from the City to defer the balance of CFF, and

WHEREAS, Owners have requested an Amendment to the Deferred Payment Agreement and Notice of Lien deferring the remaining CFF due, plus interest, in no more than five (5) annual installments commencing on April 1, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Letter Agreement is hereby terminated and the Amendment to the Deferred Payment Agreement and Notice of Lien ("Agreement") with Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes for the payment of $44,252.46, plus interest, in no more than five (5) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-280

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

INFORMATION TECHNOLOGY

In 2005 the City of Modesto and Stanislaus County entered into a contract with Final Cut Media, in the amount of $263,000, for production/broadcast support of cable broadcast events. From 2005-2008, the General Fund paid for the City's contract contribution, $131,500. In FY2008-09 no City contributions were made, but starting in FY2009-10, the FY2008-09 and FY2009-10 charges were transferred into the Information Technology Internal Service Fund model and only charged to non-General Fund funds. The reasoning behind that direction was, the General Fund had fully funded the charges for the first five years of the contract, and the other funds would bear the cost for the remaining five years of the contract. Since the City contributions were processed through the Information Technology Internal Service Fund model, a budget adjustment is necessary to transfer the amount of $134,500 to the Education and Government Community Fund (0320) since the Information Technology Internal Service Fund model collects these funds in the Information Technology Fund (7130). In FY2009-10 when the transfers were adopted only funding for FY2008-09 was transferred. Therefore, this budget adjustment is necessary to transfer funding for FY2009-10.

PARKS, RECREATION AND NEIGHBORHOODS

An adjustment is necessary to create a multi-year organization within the HOME Fund (1170) for the American Dream Down Payment Initiative. This adjustment transfers previous year's carryover funding in HOME Fund Reserves and Direct Loans totaling $120,621 for the multi-year Homebuyer's Assistance Program.

An adjustment is necessary to reduce appropriations by $1,369 in Capital Improvement Project N442, Playground Equipment Upgrades and close the account. Additionally, this adjustment will reduce the transfer from the Parks Fund in the amount of $34.

Originally, Virginia Corridor was established with all revenues reflected in the Primary Capital Improvement Account, A087. To clearly identify revenues and expenditures associated with this project the accounting of Primary and Secondary projects should remain independent of one another. This adjustment removes funding in the amount of $524,229 from Capital Improvement Project A087, Virginia Corridor-Primary, as the funding already resides in the Secondary accounts, Virginia Corridor Phase III/IV - P713, Virginia Corridor Phase V - P365 and Virginia Corridor Phase VI - P366.

POLICE

An adjustment is necessary to reduce appropriations by $23,311 in Fund 0410, Block Grant Reimbursement, as the grant has ended. Additionally, this adjustment will reduce the transfer from the General Fund to the Block Grant Reimbursement Fund in the amount of $23,311.

This budget adjustment recognizes unbudgeted revenue in the amount of $22,631in Fund 8850, Stanislaus Drug Enforcement Agency (SDEA), due to the acceptance of a California Emergency Management Agency Grant approved by Council on March 11, 2010, and appropriates these funds to the Calema Antidrug Abuse Stimulus operating costs in Organization 2105 within Fund 8850.

PUBLIC WORKS / UTILITY PLANNING & PROJECTS

An adjustment is necessary to transfer $2,580,992 from the Wastewater Development Fees Fund (6211) to Capital Improvement Project B805, Wastewater Phase 1A Tertiary, to pay growth related project expenses in FY2009-10.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-281

A RESOLUTION APPROVING AN AGREEMENT WITH THE STANISLAUS COUNTY FIRE AUTHORITY IN THE AMOUNT OF $40,000 TO RESTORE THE FIRE DEPARTMENT EMS COORDINATOR POSITION TO THREE-QUARTER TIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator's responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has offered to pay $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Stanislaus County Fire Authority in the amount of $40,000 to restore the EMS Coordinator position to three quarter time position.

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 July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-282

A RESOLUTION AMENDING THE FISCAL YEAR 2010/11 GENERAL FUND FIRE DEPARTMENT OPERATING BUDGET ESTIMATING REVENUE OF $40,000 FROM THE STANISLAUS COUNTY FIRE AUTHORITY EMERGENCY MEDICAL SERVICES COORDINATOR CONTRACT

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator's responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has committed $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010/11 Operating Budget is hereby amended to include $40,000 in revenue to the Fire Department.

Revenue Account 0100-180-1805-8XXX

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-283

A RESOLUTION AMENDING THE FIRE DEPARTMENT POSITION ALLOCATION TO INCLUDE ONE THREE-QUARTER TIME BENEFITED EMERGENCY MEDICAL SERVICES COORDINATOR POSITION

WHEREAS, in 2006, the Modesto Fire Department created the position of Emergency Medical (EMS) Coordinator, to assist with all emergency medical program duties and responsibilities, and

WHEREAS, the EMS Coordinator's responsibilities include department-wide EMS training, Paramedic training and oversight, dispatch quality assurance and improvement, and policy and procedure development, and

WHEREAS, this position has assisted other County fire agencies with many of these same responsibilities, and

WHEREAS, in Fiscal Year 2009-10, budget reductions resulted in reducing this position to part-time (960 hours), and

WHEREAS, the Modesto Fire Department has significantly limited the assistance it now provides to County fire agencies, and

WHEREAS, the Stanislaus County Fire Authority has recognized the need for this assistance, and has committed $40,000 via contract to restore the EMS Coordinator position to a three-quarter time position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fire Department position allocation is hereby amended to include one three-quarter-time benefited Emergency Medical Services Coordinator position.

BE IT FURTHER RESOLVED that the Human Resources 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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

JUN 28 2011

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2011-236

MODESTO CITY COUNCIL
RESOLUTION NO 2010-284

A RESOLUTION APPROVING THE FY 2010-2011 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY AND RESCINDING RESOLUTION NO. 2009-198

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee"), which prepares an annual budget for each fiscal year, and submits said annual budget to the City Council and Board of Supervisors for approval by August 1st of a year, and

WHEREAS, said Executive Committee may also recommend adjustments to an approved annual budget as necessary to provide sufficient funding for project activities, and

WHEREAS, at its March 18, 2010, meeting the Executive Committee also considered the proposed FY 2010/2011 Budget as shown in **Attachment "A"**, attached hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2010-2011 Budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2010-2011 Waste-to-Energy Project Budget, a copy of which is attached hereto as **Attachment "A"** and incorporated herein by reference, as recommended by the Executive Committee.

BE IT FURTHER RESOLVED that Resolution No 2009-198 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A

Stanislaus Waste to Energy Project

Proposed Budget Summary FY 2010-2011

Expenditures			Revenues		
Operatings & Maintainence Expense		**$ 12,392,734**	**Electric Credit**		
			Revenue from Electricity Sales	6,872,250	
Pass-Through Costs			Fixed Capacity Charge	631,665	
Ash Disposal	1,215,200		Gross Electric Revenues	7,503,915	
Process Rejects	4,447		90% of Gross Electric Revenues	6,753,524	
Recovered Materials (Credit)	-59,018		**Total Electric Credit**		**$ 6,753,524**
Insurance	374,559				
Ferrous Metals	25,000		**Disposal Fees**		**$ 6,860,000**
Property Tax	528,461				
Sales Tax	291,092		**Supplemental Waste Disposal**		**$ 350,000**
Trustee Fees	0				
Site Lease	198,000		**RRA Interest Earnings**		**$ 167,011**
Air Permit Fees	135,000				
County Fees/Other Fees	9,991		**Use of RRA Fund Balance**		**$ 3,840,360**
Franchise Fees	9,921				
Carbon Expense	280,085				
Dolomitic Lime Expense	230,767				
Total Pass-Through Costs		**$ 3,243,505**			
Debt Service Expense					
Bond Principal Payment Due January 1st	0				
Bond Interest Expense	0				
Liquidity Fee	0				
Remarketing Fee	0				
DSRF Interest Earnings	0				
Principal Account Interest Earnings	0				
Net Debt Service Expense		**$ -**			
Annual Administrative Expenses					
62200-Memberships (IEPA)	20,000				
62410-Rebates & Refunds (Arbitrage Liability)	0				
62600-Office Supplies	555				
62780-Books/Periodicals	555				
63000-Professional & Special Services (Leg. Lobbyist, Audits, F/A's, Energy Consultant)	75,000				
63400-Engineering Services (Consulting Eng.)	50,000				
63410-City of Modesto Admin	262,000				
63640-Legal Services (outside Counsel)	100,000				
65000-Public/Legal Notices	518				
65100-Rent/Equipment	0				
65300-Rent/Structure	0				
65780-Education/Training	1,000				
67040-Travel Expenses (Wte conf.)	2,500				
74080-Central Services Printing	0				
74250-County Counsel	15,000				
74301-County Auditor	10				
74302-County Purchasing	497				
74370-County Stores	0				
74520-County Admin (incl. project position)	337,383				
74881-A-87 Charges	-362				
82130-Office Equipment	0				
84420-Personal Computer Equipment	0				
73010-Contributions to other agencies (HHW and AB939 surcharges)	1,470,000				
Total Administrative Expenses		**$ 2,334,655**			
Total Expenditure		**$ 17,970,894**	Total Revenue		**$ 17,970,894**

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-285

RESOLUTION APPROVING A FIVE-YEAR EXTENSION TO THE CURRENT AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO CONVENTION AND VISITORS BUREAU TO PROVIDE CONVENTION AND VISITOR BUREAU SERVICES

WHEREAS, on August 3, 2005, the City Council, by Resolution No. 2005-382, approved an Agreement between the City of Modesto and the Modesto Convention and Visitors Bureau (CVB) to provide convention and visitor bureau services, and

WHEREAS, funding for the CVB is based on Transient Occupancy Tax collections received by the City of Modesto, and

WHEREAS, the current agreement between the CVB and the City of Modesto is set to terminate on June 30, 2010, and

WHEREAS, the CVB has requested to exercise the agreement renewal option and extend the agreement for five years, through June 30, 2015, and

WHEREAS, it is the desire of the City and the CVB to continue to provide convention and visitor bureau services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year extension to the current agreement with the Modesto Convention and Visitors Bureau to provide convention and visitor bureau services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-286

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND OFFICER FAINTER FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, BARZ; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Fainter, wishes to purchase and assume possession of his assigned canine, Barz, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and Officer Fainter for the purchase of retired police canine, Barz.

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 July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-287

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND OFFICER KLEIBER FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, VANCO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Kleiber, wishes to purchase and assume possession of his assigned canine, Vanco, upon the dog's official retirement, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and Officer Kleiber for the purchase of retired police canine, Vanco.

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 July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-288

A RESOLUTION ACCEPTING THE WORK BY SIERRA NATIONAL CONSTRUCTION, INC. FOR THE "ADVANCE TRAFFIC MANAGEMNET SYSTEM (ATMS) EXPANSION PELANDALE AVENUE PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $293,085.43

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the "Advance Traffic Management System (ATMS) Expansion Pelandale Avenue Project" has been completed by Sierra National Construction, Inc., in accordance with the contract agreement dated June 8, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Advance Traffic Management System (ATMS) Expansion Pelandale Avenue Project" is hereby accepted as complete from said contractor Sierra National Construction, Inc.

BE IT FURTHER RESOLVED that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $293,085.43 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-289

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED APRIL 2010 FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL PROJECT AS COMPLETE

WHEREAS, the 2007 Wastewater Master Plan identified hydraulic capacity deficiencies in the sanitary sewer system due to direct connections of storm drain runoff to the sewer system, and

WHEREAS, in order to improve the overall hydraulic capacity of the sanitary sewer collections system and to prevent sewer overflows, it is necessary to remove these cross connections, and

WHEREAS, on April 28, 2009, by Resolution 2009-151, the City Council approved an agreement with RRM Design Group to prepare the Preliminary Design Report (PDR) for Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Area 2 Storm Drain Cross Connection Removal project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated April 2010 for Area 2 Storm Drain Cross Connections Removal project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-290

A RESOLUTION APPROVING AN AGREEMENT WITH RRM DESIGN GROUP FOR FINAL DESIGN SERVICES FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL PROJECT-PHASE 1 IN AN AMOUNT NOT TO EXCEED $222,747 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,274 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $245,021; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the 2007 Wastewater Master Plan identified hydraulic capacity deficiencies in the sanitary sewer system due to direct connections of storm drain runoff to the sewer system, and

WHEREAS, the 2007 Wastewater Master Plan identified the need to remove these direct cross connections to prevent sewer overflows, to decrease the costs of downstream sanitary sewer improvement projects, and to improve the overall hydraulic capacity of the sanitary sewer collections system , and

WHEREAS, on April 7, 2009, by Resolution 2009-151, the City Council approved an agreement with RRM Design Group to prepare the Preliminary Design Report (PDR) for Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the PDR titled "Area 2 Storm Drain to Sanitary Sewer Cross Connections Removal Project," summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated construction cost of $2.9 million for Area 2 Storm Drain to Sanitary Sewer Cross Connections Removal Project-Phase 1, and

WHEREAS, RRM Design Group successfully completed the PDR for Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, this agreement for final project design will allow for the final design, development of biddable documents, and assistance during the bid period for Phase 1 of the project, and

WHEREAS, City staff recommends approving an agreement with RRM Design Group as the City does not have the staffing level to complete the final design services for Area 2 Storm Drain Cross Connections Removal Project-Phase 1, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with RRM Design Group for Final Design Services for Area 2 Storm Drain Cross Connections Removal Project-Phase 1 in an amount not to exceed $222,747 for the identified scope of services, plus $22,274 for additional services (if needed), for a maximum total amount of $245,021.

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 July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-291

A RESOLUTION ACCEPTING THE WORK BY INSITUFORM TECHNOLOGIES, INC. FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON "I" STREET BETWEEN 8TH AND 9TH STREETS PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $120,110

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets Project has been completed by Insituform Technologies, Inc., in accordance with the contract agreement dated January 12, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Reline Existing Waterline Under Union Pacific Railroad Tracks on "I" Street Between 8th and 9th Streets Project is hereby accepted as complete from said contractor Insituform Technologies, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $120,110 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-292

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH WENFU SHIEH AND IRENE SHIEH, AS CO-TRUSTEES OF THE SHIEH FAMILY TRUST, DATED MARCH 11, 1998, FOR A 0.03-ACRE (1,219 SQ. FT.) PARCEL IN FEE, AND A 0.03-ACRE (1,459 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3448 ROSELLE AVENUE (APN 085-001-040), IN THE AMOUNT OF $19,961, FOR THE ROSELLE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from two lanes to four lanes, to include curb, gutter, sidewalks, median, and landscaping and street lighting to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, dated March 11, 1998, for a 0.03-acre (1,219 sq. ft.) parcel in fee, and a 0.03-acre (1,459 sq. ft.) portion for a Temporary Construction

Easement of a parcel located at 3448 Roselle Avenue (APN 085-001-040), in the amount of $19,961, for the Roselle Avenue Widening Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-293

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3448 ROSELLE AVENUE (APN 085-001-040), OWNED BY WENFU SHIEH AND IRENE SHIEH, AS CO-TRUSTEES OF THE SHIEH FAMILY TRUST, DATED MARCH 11, 1998, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.03-acre (1,219 sq. ft.) portion of a 2.86-acre parcel of land located on Roselle Avenue (APN 085-001-040) within the project area, owned by Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, Dated March 11, 1998, to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Roselle Avenue (APN 085-001-040), owned by Wenfu Shieh and Irene Shieh, as Co-Trustees of the Shieh Family Trust, Dated March 11, 1998, to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-294

A RESOLUTION INCREASING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE "EMERALD TRUNK LINE REHABILITATION" PROJECT BY $113,880 FROM 8% ($455,520) TO 10% ($569,400) OF THE ORIGINAL CONTRACT PRICE WITH K.J. WOODS CONSTRUCTION, INC. TO FUND THE CHANGE ORDER WORK

WHEREAS, the City Council, on July 14, 2009, by Resolution No. 2009-340, awarded a $5,694,000 contract to K. J. Woods Construction, Inc. for the Emerald Trunk Line Rehabilitation, and

WHEREAS, during the course of construction, additional scope of work was identified for the emergency replacement of a section of approximately 300 feet of pipeline along South Emerald Avenue, and

WHEREAS, the additional scope cost of $194,700 includes removal and replacement of pipe and removal of large amounts of concrete used in the previous repair, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $455,520, and

WHEREAS, due to the inherent nature of this type of construction, the anticipated change orders related to the project, and in order to leave the Emerald Trunk project Change Order Authority uncompromised, staff is requesting Council approval to increase the Director's Change Order Authority from 8% ($455,520) to 10% ($569,400),

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Director of Utility Planning and Projects' authority to issue change orders on the Emerald Trunk Line Rehabilitation project by $113,880

from 8% ($455,520) to 10% ($569,400) of the original contract price with K. J. Woods Construction, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-295

RESOLUTION APPROVING AND CONFIRMING THE ASSIGNMENT AGREEMENT BETWEEN JP MORGAN CHASE BANK, BEAR STEARNS CAPITAL MARKETS INC. AND THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY INCREASING THE PLEDGOR'S THRESHOLD FOR THE 2007 SWAP AGREEMENT FROM $5 MILLION TO $20 MILLION

WHEREAS, in May 2007 the City Council, by Resolution 2007-275, approved the issuance of revenue bonds by the Modesto Irrigation District Financing Authority related to the financing of Phase 2 of the Domestic Water Treatment and Delivery System of the Modesto Irrigation District, and

WHEREAS, this debt issue included an interest rate swap with Bear Sterns Capital Markets, which was subsequently acquired by JP Morgan Chase Bank, and

WHEREAS, the purpose of an interest rate swap is to create a synthetic fixed interest rate that holds each party harmless as the variable interest rate moves up or down, and

WHEREAS, due to current economic conditions, interest rates are at their lowest levels when compared to the last 20 years, therefore creating a swap termination value currently calculated to be approximately $18 million that the City would be required to pay to JP Morgan if this agreement was terminated, and

WHEREAS, under the swap agreement if three conditions exist, then the City can be required to post collateral with an independent trustee to assure JP Morgan's financial interests in the event the agreement is terminated, and

WHEREAS, these conditions include: 1) the credit rating of the bond and swap payment insurer (MBIA) must fall below A- category. Currently, the credit rating for MBIA is in the BBB category. 2) The lowest credit rating for the Modesto Irrigation

District revenue bonds is below the AA- category. These bonds have a credit rating of AA-/A-1. 3) The swap agreement Pledgor's Threshold against the City is greater than $5 million. Currently, it is calculated to be approximately $18 million, and

WHEREAS, while these conditions have existed for approximately a year, JP Morgan has not asserted its right to have the City post termination collateral, and

WHEREAS, on June 17, 2010, the City was informed that JP Morgan intended to require the City to post this collateral in the immediate future. JP Morgan, Modesto Irrigation District and the City have tentatively negotiated an Assignment Agreement which would change the Pledger's Threshold from $5 million to $20 million, and

WHEREAS, on June 22, 2010, Council authorized staff to post collateral up to $18 million; however, execution of the **attached** Assignment Agreement will raise the Pledgor's Threshold from $5 to $20 million, thus reducing the required collateral posting, and

WHEREAS, staff believes it is in the City's best interest to post $3 million in collateral to avoid daily adjustments as interest rates fluctuate, and

WHEREAS, the City retains ownership of collateral on deposit and earns interest at market rates, thus minimizing impacts to the Water Enterprise Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and confirms the Assignment Agreement between JPMorgan Chase Bank, Bear Stearns Capital Markets Inc. and the Modesto Irrigation District Financing Authority increasing the Pledgor's Threshold for the 2007 Swap Agreement from $5 million to $20 million.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXECUTION COPY

ASSIGNMENT AGREEMENT

ASSIGNMENT AGREEMENT, dated as of June 28, 2010, by and among Bear Stearns Capital Markets Inc. ("Assignor"), Modesto Irrigation District Financing Authority ("Remaining Party") and JPMorgan Chase Bank, N.A. ("Assignee").

Assignor and Remaining Party have executed the Master Agreement dated as of June 5, 2007 between Assignor and Remaining Party, including the Schedule and Credit Support Annex thereto, as may have been amended and/or restated (the "Master Agreement") and Assignor and Remaining Party have entered into one or more transactions under the Master Agreement pursuant to the related Confirmation(s) between the Assignor and the Remaining Party (collectively, the "Transaction").

The Assignor wishes to assign its rights and delegate its obligations under the Master Agreement and Transaction to the Assignee, and the Assignee wishes to succeed to the rights and assume the obligations of the Assignor under the Master Agreement and Transaction.

1. Assignment and Assumption.

Effective as of June 28, 2010 (the "Assignment Effective Date"), Assignor hereby assigns, transfers and sets over to the Assignee all the right, title and interest, powers, privileges and remedies of the Assignor under the Master Agreement and Transaction, and the Assignor hereby delegates and the Assignee hereby assumes all duties, liabilities and obligations of the Assignor under the Master Agreement and Transaction, provided that the parties agree that the modifications set forth below shall be incorporated into the Master Agreement. As of the Assignment Effective Date, all references to "Party A" in the Master Agreement shall mean "JPMorgan Chase Bank, N.A."

2. Consent and Release.

Remaining Party hereby consents to the foregoing assignment and delegation. As of the Assignment Effective Date, Assignor and Remaining Party release one another from all obligations with respect to the Master Agreement and Transaction, provided that such release shall not affect any rights or obligations arising before the Assignment Effective Date.

3. Schedule.

(a) All references to "Bear Stearns Capital Markets Inc." in the Schedule shall be replaced with "JPMorgan Chase Bank, N.A.".

(b) Part 1(h)(i)(a) of the Schedule is amended by replacing "The Bear Stearns Companies Inc. ("BSC")" with "Party A".

(c) The following addresses shall replace the addresses for notices to Party A set forth in Part 3(a) of the Schedule:

JPMorgan Chase Bank, N.A.
Attention: Legal Department-Capital Markets Group

270 Park Avenue, 40th Floor
New York, New York 10017-2070
Facsimile No.: (212) 270-7468

With respect to delivery of financial statements:

JPMorgan Chase Bank, N.A.
270 Park Avenue, 22nd Floor
New York, New York 10017
Attention: Municipal Derivatives Credit Group

(d) Part 3(c) of the Schedule is replaced in its entirety with the following:

"***Credit Support Document***. Credit Support Document means, in the case of Party A and Party B, the ISDA Credit Support Annex attached hereto."

(e) Part 3(d) of the Schedule is replaced in its entirety with the following:

"***Credit Support Provider***. Credit Support Provider means, in the case of Party A and Party B, none."

4. Credit Support Annex.

(a) Paragraph 13(b)(iv)(E) of the Credit Support Annex is amended by replacing "The Bear Stearns Companies Inc." with "Party A".

(b) The table attached to the Credit Support Annex is replaced in its entirety with the following:

Rating Issued by Moody's	**Rating Issued by S&P**	**Rating Issued by Fitch**	**Pledgor's Threshold**	**Minimum Transfer Amounts**
Aa3 and above	AA- and above	AA- and above	$20,000,000	$500,000
A1	A+	A+	$20,000,000	$500,000
A2	A	A	$5,000,000	$500,000
At or below A3 or suspended, withdrawn or unrated	At or below A- or suspended, withdrawn or unrated	At or below A- or suspended, withdrawn or unrated	Zero	Zero

If Moody's, S&P or Fitch issue different rating classifications for a party, the Pledgor's Threshold and the Minimum Transfer Amount that apply to such party shall be the applicable amounts opposite the lowest of the ratings. In addition, a party that is a Defaulting Party shall be deemed to have a Threshold

and Minimum Transfer Amounts equal to zero regardless of the rating classification that Moody's, S&P or Fitch may have issued at such time.

5. ISDA Master Agreement.

Effective as of the Assignment Effective Date, the Master Agreement and Transaction, and the related Confirmation(s) of the Transaction, shall be deemed to be between the Assignee and the Remaining Party.

6. Representations.

Each party hereby represents that (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, (ii) it has the power to execute and deliver this Assignment Agreement and to perform its obligations under this Assignment Agreement and has taken all necessary action to authorize such execution and delivery and performance of such obligations, (iii) its execution and delivery of this Assignment Agreement do not violate or conflict with any law, rule or regulation applicable to it, any provision of its charter or by-laws (or comparable constituent documents), any order or judgment of any court or other agency of government applicable to it or any of its assets, (iv) all authorizations of and exemptions, actions or approvals by, and all notices to or filings with any governmental or other authority that are required to have been obtained or made by the party at the time this representation is made with respect to this Assignment Agreement have been obtained or made and are in full force and effect and all conditions of any such authorizations, exemptions, actions or approvals have been complied with, and (v) this Assignment Agreement constitutes the party's legal, valid and binding obligation, enforceable against the party in accordance with its terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

7. Amendments.

No amendment of this Assignment Agreement will be effective unless in writing and signed by each of the parties.

8. Governing Law.

The Assignment Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to choice of law doctrine.

9. Counterparts.

This Assignment Agreement may be executed in counterparts, each of which shall be deemed an original.

10. Wire Instructions.

The following account details shall be used for Party A:

JPMORGAN CHASE BANK, N.A.
ABA/Bank No.: 021 0000 21
Account No.: 999 97 979
JPMorgan Ref. No.:

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the date first above written.

BEAR STEARNS CAPITAL MARKETS INC.

By: _____
Name:
Title:

MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By: _____
Name:
Title:

Acknowledged and Consented to by:

National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) ("National"), as reinsurer of Interest Rate Swap Insurance Policy No. 497333 pursuant to the Amended and Restated Quota Share Reinsurance Agreement, dated as of March 11, 2009 and effective as of January 1, 2009, by and between MBIA Insurance Corporation ("MBIA") and National, and as administrator of administrative and other services on behalf of MBIA pursuant to the terms of the Administrative Services Agreement, dated as of February 17, 2009, by and between MBIA and National, hereby acknowledges and consents to the amendments set forth in this Assignment Agreement.

NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION
(as agent for MBIA Insurance Corporation)

By: _____
Name:
Title:

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-296

RESOLUTION APPROVING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEE'S ASSOCIATION (MCEA) FOR A TERM OF JUNE 22, 2010 TO JUNE 18, 2012 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employee's Association (MCEA) expired on June 21, 2010, and

WHEREAS, representatives of the CITY and the MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCEA have reached agreement on language changes for a successor MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 22, 2010 to June 18, 2012.

SECTION 2. REOPENER.

A) Meet and confer on further concessions, if deemed necessary.

B) Meet and confer through impasse and implementation process on pension reform no later than August 2, 2010.

C) Meet and confer on Sick Leave and Retiree Medical Conversion Program Restructuring no later than August 2, 2010.

SECTION 3. MANDATORY FURLOUGHS. For FY 2010-11 and FY 2011-12, each bargaining unit member shall take 96-hours of mandatory furloughs per year. Two furlough days shall be non-fixed so that employees can schedule them in the manner as vacation is scheduled. The remaining ten days shall be scheduled as fixed dates. The dates for FY 2010-11 will be July 2, September 3, November 22, 23, 24, December 27, 28, 29, 30 and February 14. The corresponding dates for FY 2011-12 shall be determined once the 2011-2012 holiday schedule is available.

SECTION 4. PAY DIFFERENTIAL.

A) Crane Certificates—Continue to pay the differential as outlined in the current MOU. Appoint a committee consisting of CITY representatives and MCEA members will be responsible for identifying City needs, the number of crane certifications required, and the appropriate level of compensation. The committee shall have a recommendation for the Director of Human Resources no later than December 1, 2010.

B) Alternative Work Program—The Human Resources Department shall review the viability of the Alternative Work Program and make recommendations for consideration by the City no later than January 15, 2011. As part of the City's review, the City will meet with MCEA to review MCEA's proposed solutions as part of this process.

SECTION 5. SICK LEAVE. A Department Director may require a doctor's certificate for absences of less than three consecutive days for employees who have received a Corrective Improvement Memorandum for attendance. The Retirement provision to have 90% of unused sick leave up to 2,000 hours applied to premiums for health, dental and vision insurance plans shall apply to employees hired on or before

December 31, 2010 and shall be for those employees who retire in good standing after five years of continuous service.

SECTION 6. HEALTH, DENTAL, VISION INSURANCE. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	Total Contributions (monthly)	
	7/1/09	1/1/11
Family	$1050	$1100
Employee Only	596	621
Opt Out	450	450

SECTION 7. RETIREE HEALTH INSURANCE. For employees hired on or after January 1, 2011the CITY shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account up to a maximum of $100 per month. The employees subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The CITY's contribution under this section represents the entire contribution towards employee retiree medical.

SECTION 8. LANGUAGE CHANGES. Languages changes or corrections are to be made pertaining to the following items: fatigued employees, standby response time and eligibility, safety goggles, leaves of absence, job sharing, long term disability insurance, employee parking, and agency shop. The exact language shall be set forth in the MOU between the CITY and MCEA.

SECTION 9. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 23, 2009, through June 21, 2010, MOU between the CITY and MCEA shall continue in the new MOU.

The exact language of all provisions shall be set forth in the MOU between the CITY and MCEA.

WHEREAS, the Council considered this matter at its meeting of July 6, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto City Employee's Association, which covers a term from June 22, 2010 through June 18, 2012, 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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-297

RESOLUTION APPROVING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO POLICE NON-SWORN ASSOCIATION (MPNSA) FOR A TERM OF JUNE 22, 2010 TO SEPTEMBER 10, 2012 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Non-Sworn Association (MPNSA) expired on June 21, 2010, and

WHEREAS, representatives of the CITY and the MPNSA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPNSA have reached agreement on language changes for a successor MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 22, 2010 to September 10, 2012.

SECTION 2. REOPENER.

A) Meet and discuss on further concessions, if deemed necessary.

B) Meet and confer through impasse and implementation process on pension reform no later than August 2, 2010.

C) Meet and discuss on Sick Leave and Retiree Medical Conversion Program Restructuring no later than August 2, 2010.

SECTION 3. MANDATORY FURLOUGHS. For FY 2010-11 and FY 2011-12, each bargaining unit member shall take 96-hours of mandatory furloughs per year. For Fire Prevention employees two furlough days shall be non-fixed so that employees can schedule them in the manner as vacation is scheduled. The remaining ten days shall be scheduled as fixed dates. The dates for FY 2010-11 will be July 2, September 3, November 22, 23, 24, December 27, 28, 29, 30 and February 14. The corresponding dates for FY 2011-12 shall be determined once the 2011-2012 holiday schedule is available.

SECTION 4. SICK LEAVE. A doctor's certificate shall be provided in all cases of absence due to illness of three consecutive days or more when requested by the Department Director. The Department Director may require a doctor's certificate for absences of less than three consecutive days for employees who have received a Corrective Improvement Memorandum for attendance. The Retirement provision to have 90% of unused sick leave up to 2,000 hours applied to premiums for health, dental and vision insurance plans shall apply to employees hired on or before December 31, 2010 and shall be for those employees who retire in good standing after five years of continuous service.

SECTION 5. HEALTH, DENTAL, VISION INSURANCE. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	Total Contributions (monthly)	
	7/1/09	1/1/11
Family	$1050	$1100
Employee Only	596	621
Opt Out	450	450

SECTION 6. RETIREE HEALTH INSURANCE. For employees hired on or after January 1, 2011, the CITY shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account up to a maximum of $100 per month. The employees subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The CITY's contribution under this section represents the entire contribution towards employee retiree medical.

SECTION 7. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE. Remove all language pertaining to the use of performance evaluation ratings in determining seniority and applicable layoff and demotions procedures.

SECTION 8. LANGUAGE CHANGES. Languages changes or corrections are to be made pertaining to the following items: shift bidding, time bank, work schedules, and vacation. The exact language shall be set forth in the MOU between the CITY and MPNSA.

SECTION 9. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 23, 2009, through June 21, 2010, MOU between the CITY and MPNSA shall continue in the new MOU.

The exact language of all provisions shall be set forth in the MOU between the CITY and MPNSA.

WHEREAS, the Council considered this matter at its meeting of July 6, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of

Understanding between the City of Modesto and the Modesto Police Non-Sworn Association, which covers a term from June 22, 2010 through September 10, 2012, 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 6th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-298

RESOLUTION APPROVING A REVISED PROJECT SCOPE FOR THE PROJECT KNOWN AS "ARCHWAY COMMONS" AND REAFFIRMING THE CITY OF MODESTO'S COMMITMENT OF FINANCIAL ASSISTANCE IN HOME FUNDS IN AN AMOUNT NOT TO EXCEED $1,000,000 FOR THE DEVELOPMENT OF A 118 UNIT AFFORDABLE HOUSING COMPLEX

WHEREAS, on November 1, 2007, a Request for Qualifications (RFQ) was released to solicit proposals for either the development of new construction or the rehabilitation of existing market rate housing to be converted to affordable units for low income households, and

WHEREAS, the Citizen's Housing & Community Development Committee (CH&CDC) review subcommittee met on June 17, 2009, to review the Archway Commons project to provide affordable rental housing to a mix of household types, including single individuals, couples, households with children as well as seniors, and

WHEREAS, on July 7, 2009, the CH&CDC recommended the allocation of $1,000,000 for the development of this project with 11 out of the 150 units as HOME units. The investment per HOME unit is $90,909, and

WHEREAS, the City and Redevelopment Agency (Agency) entered into a Disposition and Development Agreement ("Existing DDA"), dated June 2, 2009, with EAH, Inc. ("Developer") providing an option for the Developer to either purchase or ground lease from the Agency certain property ("Site") for the development of a 150-unit affordable housing project (the "Housing Project"), and

WHEREAS, on August 11, 2009, the City and Agency approved an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that

the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in order to improve the financial feasibility of the project, on March 23, 2010, the Agency approved a recommendation from the Developer to phase the 150-unit affordable housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, this strategy was ineffective in gaining approval of the Tax Credits needed to make the 150-unit project viable, and

WHEREAS, it continues to be in the Agency's best interest to enhance the viability of the Housing Project,

NOW, THEREFORE, BE IT RESOLVED, by the Redevelopment Agency of the City of Modesto as follows:

1. The Council agrees to support a single-phased project of 118-units.

2. The Council reasserts its commitment of financial support for this project and hereby authorizes the use of HOME funds in an amount not to exceed $1,000,000 for the 118 units of affordable housing.

BE IT FURTHER RESOLVED that the Council hereby authorizes and directs the City Manager, or his designee, to undertake such actions and execute such documents as are necessary to carry out the provisions of this resolution and to complete the obligations of City under the Amended DDA on behalf of the Agency, including without limitation, the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-299

RESOLUTION APPROVING A REVISED PROJECT SCOPE FOR THE PROJECT KNOWN AS "ARCHWAY COMMONS" AND REAFFIRMING THE REDEVELOPMENT AGENCY'S COMMITMENT OF $6,749,000 IN AFFORDABLE HOUSING SET-ASIDE FUNDS FOR THE 118 UNIT PROJECT

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the "Redevelopment Project"), and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project, and

WHEREAS, on April 28, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing apartment complex, also referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH, Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project, and

WHEREAS, a Purchase Agreement was approved on June 2, 2009, by Resolution No. 13-2009, for the acquisition of the fourth (4th) and final parcel needed for the Housing Project, and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and closed escrow on the fourth parcel on July 1, 2009, and

WHEREAS, the Agency previously entered into a Disposition and Development Agreement ("Existing DDA"), dated June 2, 2009, with Developer providing an option for the Developer to either purchase or ground lease from the Agency the Site for the development of a 150-unit affordable Housing Project, and

WHEREAS, on August 11, 2009, the Agency approved an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that the Developer would purchase the Site from the Agency, and make other conforming changes related thereto, and

WHEREAS, the proposed Amended DDA further provided that the Developer would develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the Amended DDA also provided for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000; a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA, and

WHEREAS, in order to improve the financial feasibility of the project, on March 23, 2010, the Council approved a recommendation from the Developer to phase the 150-unit affordable housing complex into two phases with the first phase consisting of 102 units with a second phase of 48 units, and

WHEREAS, this strategy was ineffective in gaining approval of the Tax Credits needed to make the 150-unit project viable, and

WHEREAS, it continues to be in the City's best interest to enhance the viability of the Housing Project,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto as follows:

1. The City Council agrees to a single phased project of 118 units.

2. The City Council reasserts its commitment of financial support for the Housing Project and hereby authorizes the use of all commitment funds for Phase I from both the Agency and HOME funds.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are authorized to undertake such actions and execute such documents as are necessary to carry out the provisions of this Resolution and to complete the obligations of the Agency under the Amended DDA on behalf of the Agency, including without limitation, the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-300

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING A SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS A MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE CITY OF MODESTO SHOULD ELIMINATE RUN-OFF ELECTIONS FOR COUNCIL DISTRICTS AND CONTINUE A RUN-OFF ELECTION FOR MAYOR, IF NECESSARY, IN FEBRUARY OF EVEN NUMBERED YEARS AND DELETING IRRELEVANT DATES; CONSOLIDATING THE SPECIAL ELECTION WITH THE STATEWIDE ELECTION TO BE HELD NOVEMBER 2, 2010; APPROVING THE FORM OF THE BALLOT QUESTION; SETTING FORTH PROCEDURES FOR BALLOT ARGUMENT; AND DIRECTING THE CITY CLERK TO SUBMIT THE MEASURE TO THE CITY ATTORNEY FOR AN IMPARTIAL ANALYSIS

WHEREAS, under the provisions of the Modesto City Charter, if, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd numbered year, no candidate for any of the elected offices of the City of Modesto receives a majority of the votes case, a second regular municipal election shall be held for said office or offices on the second Tuesday in December of each odd numbered years;

WHEREAS, the City Council of the City of Modesto established an Ad Hoc Committee on Run-Off Elections ("Committee");

WHEREAS, there have been problems related to the timing of run-off elections and disputes over definitions which resulted in run-offs that arguably were not necessary; and

WHEREAS, the Committee met and considered these and other various issues pertaining to such run-off elections;

WHEREAS, the Committee made certain recommendations to the Modesto City Council; and,

WHEREAS, the City Council considered said recommendations at the Council meeting of July 6, 2010;

NOW, THEREFORE, the City Council of the City of Modesto, does resolve, declare, determine and order as follows:

SECTION 1: Pursuant to Article 11 of section 3 of the California Constitution, and section 9255(a)(2) of the California Elections Code, and California Government Code section 34458, the City Council of the City of Modesto proposes, and does hereby, on its own motion, submit to the qualified electors of the City of Modesto and hereby calls a Special Municipal Election of the qualified voters of the City of Modesto, to be held November 2, 2010, to submit to the voters an amendment to the City Charter to eliminate run-off elections for City Council districts and continue, if necessary, run-off elections for Mayor to be held on the first Tuesday in February of each even numbered year, commencing in the year 2012 and delete irrelevant dates.

SECTION 2. The measure is to appear on the ballot as follows:

Shall Section 300 of the Modesto City Charter be amended to eliminate run-off elections for Council districts and continue, if necessary, run-off elections for the position of Mayor, to be held on the first Tuesday in February of each even numbered year, commencing with the year 2012 and delete irrelevant dates?	YES
	NO

The complete text of the proposed Charter Amendment is attached as **Exhibit A**.

SECTION 3. Pursuant to the provisions of the Elections Code of the State of California, the City Council of the City of Modesto hereby requests that the Special Municipal Election of the City of Modesto to consider this measure be held on November 2, 2010, in conjunction with, and to be consolidated with, the Statewide Election to be

held in the City of Modesto on that same date, and further requests that the Board of Supervisors of the County of Stanislaus to make its order of consolidation and thereafter call said consolidated election, and direct the Stanislaus County Registrar to conduct all necessary services related to said election including but not limited to the canvas of returns of the election and the certification of the results to the City Council of the City of Modesto.

SECTION 4. That pursuant to California Elections Code section 9282, the City Council authorizes the members of the City Council, or any of them, to file written arguments (not to exceed 300 words) in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

SECTION 5. That the City Clerk of the City of Modesto is directed, pursuant to Elections Code section 9280, to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

SECTION 6. That in all particulars not recited in this resolution, the election shall be conducted as provided by law for holding municipal elections.

SECTION 7. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors in the County Election Department of the County of Stanislaus.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law and take all steps necessary to place the measure on the ballot.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the Resolution adopted by the following votes:

AYES: Councilmembers: Geer, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: Hawn, Lopez, Marsh

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

(vote definition)

EXHIBIT A
PROPOSED CHARTER AMENDMENT

Section 300 of the City of Modesto Charter is proposed to be amended as follows (with strike out indicating deletion and underlined text indicating addition)

SECTION 300. REGULAR MUNICIPAL ELECTIONS

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in ~~March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday~~ in November of each odd-numbered year ~~commencing with the year 1985.~~

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective officers of the City of Modesto receives a majority of the **valid** votes cast for said office at said regular municipal election, a second regular municipal election shall be held for said office on the second Tuesday in December of each odd-numbered year ~~commencing with the year 1987.~~ At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-301

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CALLING A SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS A MEASURE SEEKING A VOTE ON THE QUESTION OF WHETHER THE VOTE REQUIRED FOR A RUN-OFF ELECTION SHALL BE IF ANY CANDIDATE FOR A PARTICULAR POSITION DOES NOT RECEIVE A MAJORITY OF THE VOTES CAST FOR THAT POSITION IN A REGULAR MUNICIPAL ELECTION FOR THAT POSITION AND WHETHER IRRELEVANT DATES SHOULD BE DELETED; CONSOLIDATING THE SPECIAL ELECTION WITH THE STATEWIDE ELECTION TO BE HELD NOVEMBER 2, 2010; APPROVING THE FORM OF THE BALLOT QUESTION; SETTING FORTH PROCEDURES FOR BALLOT ARGUMENT; AND DIRECTING THE CITY CLERK TO SUBMIT THE MEASURE TO THE CITY ATTORNEY FOR AN IMPARTIAL ANALYSIS

WHEREAS, under the provisions of the Modesto City Charter, if, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd numbered year, no candidate for any of the elected offices of the City of Modesto receives a majority of the votes cast, a second regular municipal election shall be held for said office or offices on the second Tuesday in December of each odd numbered years;

WHEREAS, the City Council of the City of Modesto established an Ad Hoc Committee on Run-Off Elections ("Committee");

WHEREAS, there have been problems related to the timing of run-off elections and disputes and uncertainty over definitions as to what constituted the voting outcome that would require a run-off election for a particular council seat which resulted in run-off elections that arguably were not necessary; and

WHEREAS, the Committee met and considered these and other various issues pertaining to such run-off elections;

WHEREAS, the Committee made certain recommendations to the Modesto City Council; and,

WHEREAS, the City Council considered said recommendations at the Council meeting of July 6, 2010;

NOW, THEREFORE, the City Council of the City of Modesto, does resolve, declare, determine and order as follows:

SECTION 1: Pursuant to Article 11 of section 3 of the California Constitution, and section 9255(a)(2) of the California Elections Code, and California Government Code section 34458, the City Council of the City of Modesto proposes, and does hereby, on its own motion, submit to the qualified electors of the City of Modesto and hereby calls a Special Municipal Election of the qualified voters of the City of Modesto, to be held November 2, 2010, to submit to the voters an amendment to the City Charter to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the votes cast for that office in a regular municipal election and to delete irrelevant dates .

SECTION 2. The measure is to appear on the ballot as follows:

Shall Section 300 of the Modesto City Charter be amended to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the valid votes cast for that office in a regular municipal election and to delete irrelevant dates?	YES
	NO

The complete text of the proposed Charter Amendment is attached as Exhibit A

SECTION 3. Pursuant to the provisions of the Elections Code of the State of California, the City Council of the City of Modesto hereby requests that the Special Municipal Election of the City of Modesto to consider this measure be held on November 2, 2010, in conjunction with, and to be consolidated with, the Statewide Election to be

held in the City of Modesto on that same date, and further requests that the Board of Supervisors of the County of Stanislaus to make its order of consolidation and thereafter call said consolidated election, and direct the Stanislaus County Registrar to conduct all necessary services related to said election including but not limited to the canvas of returns of the election and the certification of the results to the City Council of the City of Modesto.

SECTION 4. That pursuant to California Elections Code section 9282, the City Council authorizes the members of the City Council, or any of them, to file written arguments (not to exceed 300 words) in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.

SECTION 5. That the City Clerk of the City of Modesto is directed, pursuant to Elections Code section 9280, to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

SECTION 6. That in all particulars not recited in this resolution, the election shall be conducted as provided by law for holding municipal elections.

SECTION 7. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors in the County Election Department of the County of Stanislaus.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law and take all steps necessary to place the measure on the ballot.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried, and the Resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Hawn, Lopez, Marsh
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

(vote definition)

EXHIBIT A
PROPOSED CHARTER AMENDMENT

Section 300 of the City of Modesto Charter is proposed to be amended as follows (with strike out indicating deletion and underlined text indicating addition)

SECTION 300. REGULAR MUNICIPAL ELECTIONS

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in ~~March of each odd-numbered year until the year 1983. Hereafter they shall be held biennially on the first Tuesday after the first Monday in~~ November of each odd-numbered year ~~commencing with the year 1985.~~

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective officers of the City of Modesto receives a majority of the **valid** votes cast for said office at said regular municipal election, a second regular municipal election shall be held for said office on the second Tuesday in December of each odd-numbered year ~~commencing with the year~~ 1987. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-302

A RESOLUTION DENYING THE APPEAL BY LEHMBER SINGH, ON BEHALF OF M&B PETROLEUM, FOR CAPITAL FACILITIES FEES PAID IN PROTEST ON BUILDING PERMIT NO. BLD 2009-71699, LOCATED AT 2301 CROWS LANDING ROAD, MODESTO AND AUTHORIZING A REFUND IN THE AMOUNT OF $6,536.71 FOR THE DIFFERENCE BETWEEN THE 2006 CFF PROGRAM RATE PAID IN PROTEST AND THE 2010 CFF PROGRAM RATE EFFECTIVE AUGUST 22, 2010

WHEREAS, on January 24, 2006, the City Council, by Resolution No. 2006-055, updated its Capital Facilities Fee ("CFF") program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-055 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of CFF based on the anticipated impacts of the development, and

WHEREAS, on May 26, 2010, staff met with Lehmber Singh, on behalf of M&B Petroleum ("Appellant"), to discuss the CFF determination for the construction of a gas station with a convenience store and car wash ("Project"), and

WHEREAS, CFF for Project was calculated at the 2006 CFF Program rate, and

WHEREAS, Appellant was provided with several payment options including paying CFF, paying and deferring CFF, or paying and protesting the payment of CFF to the City Council, and

WHEREAS, Appellant was notified that the a reduction in CFF was to be considered by the City Council on June 22, 2010, and

WHEREAS, on June 8, 2010, Appellant pulled Building Permit No. 2009-71699 for the Project and paid the CFF at the 2006 CFF Program rate in protest, and

WHEREAS, on June 8, 2010, Appellant filed a request with the City Clerk's Office for waiver of the CFF for the Project, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on July 6, 2010, 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,

WHEREAS, on June 22, 2010, the City Council approved a reduction in CFF effective August 22, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that it has reviewed Lehmber Singh's request, on behalf of M&B Petroleum, and has determined that the Project is subject to the payment of Capital Facilities Fees as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto the appeal of Lehmber Singh for the waiver of Capital Facilities Fees on Building Permit No. 2009-71699 is hereby denied.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that M&B Petroleum be allowed to pay CFF for the Project at the rate effective as of August 22, 2010.

BE IT FURTHER RESOLVED, that M&B Petroleum is entitled to a refund in amount of $6,536.71, the difference between the CFF paid at the 2006 CFF Program rate and the 2010 CFF Program rate.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED

SEP - 7 2010

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-393

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-303

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JULY 1, 2010, AND RESCINDING RESOLUTION NO. 2010-110

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for

Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference, and

WHEREAS, on November 25, 2008, by Resolution No. 2008-650, the Council approved the assessment of an AB 939 Green Waste Diversion fee that would be assessed on a per ton basis on residential, commercial bin, and drop box wastes generated in the City of Modesto, and

WHEREAS, on April 12, 2010, the Economic Development Committee approved sending a recommendation to the Council for a two-step increase in the AB 939 Green Waste Diversion fees in order to purchase green waste collection equipment that complies with the California Air Resources Board's (CARB) emissions regulations, and

WHEREAS, the Committee recommended that the fee on wastes from residential sources be increased to $1.48 per month, the fee on wastes from commercial bins be increased to $2.64 per cubic yard per month, and the fee on wastes from industrial bins be increased to $8.48 per ton in order to fund the purchase of CARB compliant green waste collection equipment, and

WHEREAS, the Committee further recommended that an additional increase in the fees in the same amounts occur in July 2011, and

WHEREAS, these fee increases would be implemented at the time of the annual maximum rate review, and

WHEREAS, the financial statements submitted by the haulers do not reflect a full year of the AB 939 Green Waste Diversion fees, and an adjustment to this component of the maximum rates is therefore necessary, and

WHEREAS, the City uses an Honor Farm crew to remove litter that has blown from garbage trucks and collection containers onto the major thoroughfares, medians, and planter areas, and

WHEREAS, the litter abatement crew is essential to maintain the appearance of the City, and the cost of this litter abatement currently costs approximately $125,000 annually, and

WHEREAS, it would be impractical and unsafe for the collection companies to remove these materials from the rights of way themselves, and

WHEREAS, on August 5, 2009, by Resolution No. 2009-384, the Council approved a litter abatement fee to recover the cost of litter abatement from the collection companies, and

WHEREAS, the financial statements submitted by the haulers do not reflect this fee, and an adjustment to this component of the maximum rates is therefore necessary, and

WHEREAS, the above noted fees and charges to the collection companies have been incorporated into the recommended schedules of maximum rates shown as **Exhibit 1** hereto, and

WHEREAS, a report dated June 15, 2010, 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 July 6, 2010, in the Tenth Street Place Chambers, located at 1010

Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective July 1, 2010, 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. 2010-110 is hereby rescinded, effective July 1, 2010.

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. Standard container service –

a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$23.67 per month** regardless of size of container. A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$17.60 per month, and $9.50 per month** for each additional green waste container.

2. 60-gallon container service (grandfathered customers) –

a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$19.86 per month**. A fuel component of $0.96 per month is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$17.15 per month.**

3. Fuel Component adjustments - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*
Maximum Monthly Rates

Container Size	Regular Container Maximum Rates NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 35.79	$ 61.09	$ 86.36	$ 111.64	$ 136.93	$ 162.22
2 CY	$ 61.09	$ 111.64	$ 162.22	$ 212.79	$ 263.35	$ 313.91
3 CY	$ 86.36	$ 162.22	$ 238.07	$ 313.91	$ 389.78	$ 465.62
4 CY	$111.64	$ 212.79	$ 313.91	$ 415.06	$ 516.19	$ 617.33
5 CY	$136.93	$ 263.35	$ 389.78	$ 516.19	$ 645.62	$ 769.04
6 CY	$162.22	$ 313.91	$ 465.62	$ 617.33	$ 769.04	$ 920.75

FORK Participants Container Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 45.82	$ 83.73	$ 121.67	$ 159.59	$ 197.51	$ 235.43
3 CY	$ 64.77	$ 121.67	$ 178.55	$ 235.43	$ 292.34	$ 349.22
4 CY	$ 83.73	$ 159.59	$ 235.43	$ 311.30	$ 387.14	$ 463.00
5 CY	$102.70	$ 197.51	$ 292.34	$ 387.14	$ 484.22	$ 576.78
6 CY	$121.67	$ 235.43	$ 349.22	$ 463.00	$ 576.78	$ 690.56
90-gallon	$ 17.75	$ 35.51	$ 53.26	$ 71.01	$ 88.76	$ 106.52

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.83 per cubic yard per month ($0.19 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning January 1, 2010 and ending March 31, 2010. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. Pick up charge - $220.21 per pick up
2. Rental - $0.85 per day up to 7 day maximum rental
- $3.00 per day for boxes kept 7 or more days without servicing
- $10.00 per day for boxes kept 21 or more days without servicing

3. Disposal charge - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.48 per ton will be added to the disposal charges.

COMPACTORS

Front Loader Type:

Compactor Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$259.08	$ 486.66	$ 714.21	$ 941.73	$1,169.34	$1,396.86
4 CY	$334.92	$ 638.37	$ 941.73	$1,245.18	$1,548.57	$1,851.99
6 CY	$486.66	$ 941.73	$1,396.86	$1,851.99	$2,307.12	$2,762.25

Roll-Off Type:

1. 6 CY to 40 CY	$220.21 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.48 per ton

EXTRA PICKUPS

1. Standard containers or equivalent	$3.50 plus $1.38/container
2. Detachable containers	$12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee, a $0.15 per month residential litter abatement fee, and a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $1.48 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.64 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	Olsen
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-304

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRAD DE LA CRUZ FROM THE ENTERTAINMENT COMMISSION

WHEREAS, Brad de la Cruz was appointed an alternate member of the Entertainment Commission on February 9, 2010, and

WHEREAS, Brad de la Cruz has tendered his resignation from the Entertainment Commission,

NOW, THERFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts, with regret, the resignation of Brad de la Cruz from the Entertainment Commission.

BE IT FURTHER RESOLVED that the Council, on its own behalf, and on behalf of the citizens of the City of Modesto, hereby expresses its sincere appreciation to Brad de la Cruz 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 13th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-305

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LES KNOLL FROM THE ENTERTAINMENT COMMISSION

WHEREAS, Les Knoll was appointed an alternate member of the Entertainment Commission on March 10, 2009, and

WHEREAS, Les Knoll has tendered his resignation from the Entertainment Commission,

NOW, THERFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts, with regret, the resignation of Les Knoll from the Entertainment Commission.

BE IT FURTHER RESOLVED that the Council, on its own behalf, and on behalf of the citizens of the City of Modesto, hereby expresses its sincere appreciation to Les Knoll 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 13th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-306

RESOLUTION APPROVING THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS, TO ORDER JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AND ORDER THAT THE STANISLAUS COUNTY TAX COLLECTOR BE CREDITED WITH THOSE TAXES

WHEREAS, the City of Modesto ("City") has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"), and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act, and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future, and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens, and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and are authorized to order the County Auditor to credit the delinquent special taxes upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto,

and

WHEREAS, on July 3, 2007, the City Council, by Resolution No. 2007-410, authorized the City Manager to execute a legal services agreement ("Agreement") with Sherman & Feller, a Law Corporation ("Attorney"), a firm experienced and qualified to prosecute such judicial foreclosure actions, and

WHEREAS, Attorney is still under contract to provide said services, and

WHEREAS, in an effort to prevent large delinquencies from accumulating, the City desires to reaffirm an additional administrative foreclosure threshold in the amount of $5,000, and

WHEREAS, this additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto, acting as the Legislative Body of all of the City of Modesto Community Facilities Districts that:

1. The City finds that the Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special taxes, and hereby orders that the delinquent special taxes listed on the **attached Exhibit A**, and all future delinquent special taxes as to such property, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

2. City staff, in conjunction with special counsel and other City consultants, are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2) to request that the applicable County officials remove current and future delinquent special

Exhibit "A"

Delinquent Parcels as of June 30, 2010
Missed 3 Installments
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-055-072-000	CFD 2004-1 (Village One #2)	2008	540.97
		2009	1,103.58
077-056-072-000	CFD 2004-1 (Village One #2)	2008	672.09
		2009	1,371.06
077-060-055-000	CFD 2004-1 (Village One #2)	2008	631.25
		2009	1,287.76
077-062-003-000	CFD 2004-1 (Village One #2)	2008	740.43
		2009	1,510.48
077-064-008-000	CFD 2004-1 (Village One #2)	2008	740.43
		2009	1,510.48
085-054-031-000	CFD 2004-1 (Village One #2)	2008	432.54
		2009	882.38

taxes from the tax rolls.

3. The Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits on redemption prior to entry of judgment as well as on post-judgment redemption, and hereby authorizes Attorney to require payment on its behalf of all costs and all attorneys' fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

4. An additional administrative foreclosure threshold in the amount of $5,000 is reaffirmed. This additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-307

RESOLUTION AMENDING THE FISCAL YEAR 2009-10 OPERATING BUDGET TO INCREASE EXPENDITURES IN FUND 0480 BY $7,515 (LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1), AND TO APPROPRIATE FUNDS FROM RESERVES TO OFFSET THE INCREASE IN OPERATING EXPENSES

WHEREAS, for Fiscal Year 2009-10, the City Council adopted an operating budget of $20,252 for Landscape Maintenance Assessment District No. 1 ("LMAD No. 1"), and

WHEREAS, the adopted operating budget of $20,252 is insufficient to meet the maintenance requirements of LMAD No. 1 for Fiscal Year 2009-10, and

WHEREAS, the increase in operating expenses resulted from an increase in utility costs, under budgeting of funds for contract landscape maintenance services and a small increase in staff charges due to the transition of management of LMAD No.1, and

WHEREAS, there are sufficient funds available in the LMAD No. 1 reserve account to appropriate $7,515 for the increased Fiscal Year 2009-10 operating expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-10 operating budget to increase expenditures by $7,515 in Fund 0480 (LMAD No. 1) and to appropriate funds from reserves to offset the increase in operating expenses.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED
FEB 2 2 2011
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2011-050

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-308

RESOLUTION MODIFYING THE ANGLED PARKING DESIGN WITH LANDSCAPED BULB-OUT REQUIREMENTS AT NEW BETHANY MISSIONARY BAPTIST CHURCH AND THE MADDUX YOUTH CENTER, AND RESCINDING RESOLUTION NO. 2007-452

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, on September 5, 2006, the City Council, by Resolution No. 2006-561, approved angled parking with landscaped bulb outs at the curb returns, and

WHEREAS, the revised landscaped bulb-out curb return was to be designed and constructed before any of the angled parking was installed, and

WHEREAS, staff believes the landscaped bulb outs are an unnecessary financial burden on both New Bethany Missionary Baptist Church and the Maddux Youth Center in these financially challenging times, and

WHEREAS, safety will not be impacted by the removal of these landscaped bulb outs, and

WHEREAS, there are similar angled parking layouts throughout the downtown area without landscaped bulb outs and safety is maintained at an acceptable level,

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 10th Street, between I & K Streets (west side) (diagonal)

- 18th Street, between G and H Streets (west side) (diagonal)
- F Street, between 10th and 11th Streets (south side) (diagonal)
- I Street, between 9th and 12th Streets (both sides) (diagonal)
- P Street, between 9th and Needham Streets (both sides) (diagonal)
- Coldwell Avenue, between Tully Road and College Avenue
- 4th Street, between E Street and G Street (west side)
- 16th Street, between I Street and J Street (east side)
- Elm Street, between Jefferson and Washington Streets (diagonal)
- Jefferson Street, between 8th and Laurel Streets (diagonal)
- 13th Street, between H and L Streets (east side)
- J Street, between 7th Street and 8th Street (north side)
- 10th Street, between G Street and F Street (east side) (diagonal)
- F Street, between 10th Street and 11th Street (north side) (diagonal)
- 15th Street, between K Street and H Street (east side) (diagonal)
- F Street, between 9th Street and 10th Street (north side) (diagonal)
- 8th Street, between J Street and K Street (east side) (diagonal)
- 8th Street, between K Street and L Street (east side) (diagonal)
- Sierra Drive between F Street and 4th Street (north side)
- 8th Street between L Street and Jefferson Street (east side) (diagonal)
- M Street between 7th Street and 8th Street (south side) (diagonal)
- 10th Street between G Street and I Street (east side) (diagonal)
- Sierra Drive between 6th Street and the alley at the west property edge of New Bethany Missionary Baptist Church (diagonal)

- Sierra Drive between 5th Street and 6th Street (north side) (diagonal)
- 6th Street, Sierra Drive to north property line of New Bethany Missionary Baptist Church (west side) (diagonal)
- 13th Street between F and G Streets (east side) (diagonal)

SECTION 2. The Director of Community and Economic Development is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2007-452 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-309

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF GRANULAR ACTIVATED CARBON FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO CALGON CARBON, PITTSBURGH, PA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $215,429

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase and installation of granular activated carbon (GAC), and

WHEREAS, the Purchasing Division issued RFB No. 0910-25 Granular Activated Carbon to eight (8) prospective bidders, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Three (3) companies chose to respond. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and installation of GAC for the Public Works Department, Water Division, to Calgon Carbon, Pittsburgh, PA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $215,429, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase and installation of

GAC for the Public Works Department, Water Division, to Calgon Carbon, Pittsburgh, PA, conforms to the Modesto Municipal Code, and

WHEREAS, the Water Fund has funds budgeted for the purchase and installation of GAC in Appropriation Unit: 6180-480-5013-0223,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of GAC for the Public Works Department, Water Division, to Calgon Carbon, Pittsburgh, PA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $215,429.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-310

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND VALLEY OAK PROPERTY MANAGEMENT, MODESTO, CALIFORNIA, FOR PROPERTY MANAGEMENT SERVICES, FOR A TWO-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on April 26, 2005, by Resolution No. 2005-199, the City Council authorized the Parks, Recreation and Neighborhoods Department to enter into an agreement for property management services for specified City-owned residential rental properties, and

WHEREAS, the existing agreement has been terminated in accordance with its provisions, and

WHEREAS, on March 29, 2010, the Parks, Recreation and Neighborhoods Department issued Request for Proposal (RFP) No. PRN2010-01 for Property Management Services for specified City-owned residential rental properties, and

WHEREAS, an evaluation committee comprised of three City staff members reviewed and evaluated the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended the award of proposal and contract for the furnishing of property management services to Valley Oak Property Management, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Valley Oak Property Management of Modesto, California, for property management services, for a two-year Agreement, with three one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-311

A RESOLUTION INCREASING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE STATE ROUTE 219 FROM WEST OF DALE ROAD TO MORROW ROAD PROJECT BY $284,676.76 FROM 8% ($267,931.07) TO 16.5% ($552,607.83) OF THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC. TO FUND THE CHANGE ORDER WORK

WHEREAS, on January 13, 2009, by Resolution No. 2009-045, the City Council awarded a $3,349,138.40 contract to George Reed, Inc. for the State Route 219 from West of Dale Road to Morrow Road project, and

WHEREAS, during the course of construction, additional scope of work was identified and approved by Caltrans, and

WHEREAS, the additional work estimated to complete the project will cost approximately $284,676, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of $267,931.07, and

WHEREAS, due to the anticipated change orders related to the project, staff is requesting Council approval to increase the Director's Change Order Authority from 8% ($267,931.07) to 16.5% ($552,607.83),

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Director of Utility Planning and Projects' Authority to issue change orders on the State Route 219 from West of Dale Road to Morrow Road project by $284,676.76 from 8% ($267,931.07) to 16.5% ($552,607.83) of the original contract price with George Reed, Inc. to fund the change order work.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-312

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED JUNE 2010, FOR THE EMERALD TRUNK SEWER RELIEF PROJECT AS COMPLETE

WHEREAS, the City's 2007 Wastewater Master Plan (WWMP) identified the need for a relief trunk for the Emerald Trunk Sewer to improve its hydraulic capacity, and

WHEREAS, on April 28, 2009, by Resolution No. 2009-174, the City Council approved an agreement with NorthStar Engineering, Inc. to prepare the Preliminary Design Report (PDR) for the Emerald Trunk Sewer Relief Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, in accordance with the Public Works Department's Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the 35% PDR report stage, and

WHEREAS, the 35 % PDR has been successfully completed and will serve as the basis for the final design of the Emerald Trunk Sewer Relief project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated June 2010, for the Emerald Trunk Sewer Relief project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-313

A RESOLUTION APPROVING AN AGREEMENT WITH NORTHSTAR ENGINEERING, INC. FOR FINAL DESIGN SERVICES FOR THE EMERALD TRUNK SEWER RELIEF PROJECT IN AN AMOUNT NOT TO EXCEED $454,090 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $45,409 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $499,499, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the 2007 Wastewater Master Plan identified the Emerald Trunk Sewer as having insufficient hydraulic capacity and severe interior corrosion, and

WHEREAS, as the 2007 Wastewater Master Plan identified a need for a relief sewer for the Emerald Trunk in order to improve it's overall hydraulic capacity, and

WHEREAS, on April 28, 2009, by Resolution No. 2009-174, the City Council approved an agreement with NorthStar Engineering to prepare the Preliminary Design Report (PDR) for the Emerald Trunk Sewer Relief Project, and

WHEREAS, the PDR titled "Emerald Trunk Sewer Relief Project," summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated construction cost of $7,137,000 for the Emerald Trunk Sewer Relief Project, and

WHEREAS, NorthStar Engineering, Inc., (NorthStar) successfully completed the PDR, and

WHEREAS, this Final Design Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with NorthStar Engineering, Inc. as the City does not have the staffing level to complete the Final Design

Services for Emerald Trunk Sewer Relief Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with NorthStar Engineering, Inc. for final design services for Emerald Trunk Sewer Relief Project in an amount not to exceed $454,090 for the identified scope of services, plus $45,409 for additional services (if needed), for a maximum total amount of $499,499.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-314

A RESOLUTION APPROVING THE INITIAL STEPS TOWARDS REGIONALIZATION OF BUILDING PERMIT INSPECTION AND PLAN CHECK SERVICES IN COOPERATION WITH STANISLAUS COUNTY

WHEREAS, in early 2010, the City of Modesto and County of Stanislaus Building Permits Divisions jointly funded a Feasibility Study of the Regionalization of Building Inspection and Plan Check Services based on recommendations from the City/County Liaison Committee, and

WHEREAS, the Matrix Consulting Group provided a final report in April, 2010, and

WHEREAS, the report included assessments of best practices and current service delivery for both jurisdictions, and

WHEREAS, the report also provided an analysis of regionalization approaches and a summary of alternatives and recommendations, and

WHEREAS, the Executive Summary of the report is provided as **Attachment 1**, and

WHEREAS, the City/County Liaison Committee recommended staff move forward with a report to each respective government for approval with the following six (6) initial steps to consolidate: approval of reciprocal staffing agreements; issuance of a joint request for proposals for new permit tracking software; evaluation of programs, service levels and performance standards; evaluation of adopting uniform building codes and administrative procedures; development of a cost-based fee system; and JPA board formation and director selection,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the initial steps towards regionalization of building permit, inspection and plan check services in cooperation with Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

INTRODUCTION AND EXECUTIVE SUMMARY

This section provides the introduction and background for the Feasibility Study of the Consolidation of Building Inspection and Plan Check Services between the City of Modesto (the City) and Stanislaus County (the County), as well as the executive summary which identifies the primary findings and recommendations of the report.

1. INTRODUCTION

Between November 2009 and March 2010, the Matrix Consulting Group conducted the feasibility study for the consolidation of building inspection and plan check services between the City and the County. The comprehensive approach to complete the study included:

- Interviewing key elected officials, City and County executives, and respective Department managers and supervisors to obtain a high-level understanding of current operations, challenges, and improvement opportunities.
- Interviewing key Department staff from both the City and the County, including personnel from building inspections, plan checking, and technical and administrative support to understand processes, roles and responsibilities, etc.
- Collecting extensive data from the permit information management systems to understand workload levels, processing times, etc., as well as budget and financial information to understand funding, revenue, etc.
- Assessing the current service delivery organization and operations and identifying opportunities for improvement assuming no regionalization occurred.
- Reviewing the consolidation efforts of other City / County jurisdictions that have recently combined some number of community development functions and services.
- Development and analysis of consolidation assumptions and alternatives, and examining the associated issues related to staffing, technology, governance, etc.

Throughout the course of the study, there was ongoing collaboration with the Project Steering Committee to review interim deliverables (such as the Profile and Best Management Practices) and discuss opportunities for improvement. The following sections summarizes the findings and recommendations of the report:

2. EXECUTIVE SUMMARY

Although the primary focus of the study was to assess the feasibility of the City of Modesto and Stanislaus County consolidating plan check and building inspection services, the project team evaluated and identified opportunities for improvement assuming the City and / or County maintained existing service delivery approaches. As such, the following sections identify the primary findings and recommendations in order to improve the respective efficiency and effectiveness of the City's and County's current plan check and building inspection services.

(1) There Is a Cost Savings for the City in Maintaining an Existing Approach to Service Delivery

The following table summarizes the primary findings and recommendations of the City of Modesto's existing service delivery approach:

Primary Finding	Recommendation
The Division's Inspection Function is more than Sufficiently Staffed for Existing Workload Demands	The core staffing level for the Building and Safety Division should be one (1) Senior Building Inspector, and three (3) Building Inspector II/I positions. The Division should eliminate one (1) existing Building Inspector II/I position and backfill with contract Building Inspectors for vacancies
The Plan Review and Permit Counter Functions are Not Adequately Staffed for Existing Workload Demands	The Division should eliminate one (1) existing Associate Civil Engineer position and backfill with an as-needed contract staff for structural review.

Primary Finding	Recommendation
Two Positions in the Division are Performing Duties Outside Their Classification Descriptions	Convert the existing Senior Administrative Office Assistant Position to an ICC Certified Permit Technician. Convert the Building Inspector II position performing full-time plan review duties to a Plan Review Engineer.
The Division's Existing Fee Structure Does not Recover the Full Cost of Providing Services	A more thorough analysis of fees for service should be conducted which more closely correlates the amount of staff hours and City costs to various project types and sizes, not the valuation of the project. The Division's fees for service should be adopted as close to 100% of the City-wide cost of providing services as is feasible.
The Division Needs Funding to Meet its Permitting Software Needs	Plan for replacement of the Tidemark System within the next two to three years. Adopt a technology maintenance surcharge on top of building permits and allocate revenues to a special fund for replacement and maintenance of permitting software. Study the technology maintenance surcharge within the context of a revisit to charging full cost recovery fees for service.

The project team has recommended minor adjustments to staffing levels and classifications, as well as addressed the issue of permit software replacement needs, with an objective to maintain existing service levels. A summary of total budgetary impacts associated with these recommendations is provided on the following page:

Recommendation	Net Cost Increase / (Savings)
Elimination of one (1) full time Building Inspector II/I	($92,000)
Elimination of one (1) full time Associate Civil Engineer and augmentation of core staffing levels with a contract part-time plan reviewer	($73,500)
Conversion of Senior Administrative Office Assistant position to an ICC certified Permit Technician	$3,000
Conversion of one Building Inspector II position to a Plan Review Engineer	$4,500
Updated User Fee Study	$25,000
Replacement and maintenance of permit software (annual), offset by permit surcharge	$0
TOTAL	**($133,000)**

In addition to these recommendations, there are a number of opportunities for improvement noted in Chapter 3, Best Management Practices Analysis, that could be accomplished with little to no fiscal impact, including:

- Inspection requests should be accepted until 7:00 AM of the day inspections are to be completed.
- The Division should publish better documents for educating contractors and the public on the timing of the construction inspection process
- A uniform plan check checklist by type of project should be used by all plan reviewers.
- Track data on the number of incomplete or rejected submittals.
- Revise cycle time goals to Best Management practices for Residential Additions and Remodels, and Tenant Improvements. Publish cycle time goals to the Division's website
- Establish cycle time agreements with departments external to the Building Division that review plans and provide the Building Division with the authority to enforce agreed upon timelines.

- Develop a routing matrix by project type for use at the front counter. Limit the number of reviewing departments to only those which are absolutely critical, to avoid processing delays.

- Publish a list of common plan review defects to the Division's website.

- Update the Division's policies and procedures manual to reflect the current organization.

With an objective to maintain existing service delivery levels, the Division should implement the project team's staffing and organizational change recommendations and focus on opportunities for improvement identified in the Best Management Practices Analysis, Chapter 3, that require little to no monetary investment.

(2) There Is a Significant Cost Increase Required for the County in Maintaining Existing Service Delivery

The following table summarizes the primary findings and recommendations of Stanislaus County's existing service delivery approach:

Primary Finding	Recommendation
The Inspection Function of the Building Permits Division is Understaffed for Existing Workload Demands	Authorize a part-time Building Inspector contract to augment existing staffing levels.
Permit Processing and Plan Review Staffing Levels are not Adequate for Workload Demands	Eliminate one (1) Building Inspector II position. Hire a full-time Permit Technician position and require ICC Certification upon hire or within one year of hire. Back up the front counter operation with the existing Staff Services Coordinator position and existing plan check staff as needed. Augment existing plan review staffing capacity with contract services for structural review and workload overflow.

The Division's Permitting Software Requires Immediate Replacement for Effective Service Delivery	Purchase a new, comprehensive permitting software application within the next three to six months. Adopt a technology maintenance surcharge on top of building permits or adopt the recent user fee study, which included a cost component for a new system; and allocate appropriate amounts of revenues to a special fund for replacement and maintenance of permitting software. Eliminate one Admin Clerk II position once the new permitting software is implemented Re-hire or replace the Application Specialist II position.
Existing Fees For Service Do Not Recover the Full County-wide Costs of Providing Services	Perform a revised study for adoption in the 2010-11 budget year. Implement the new fee structure at the same time as the new permit software system in order to achieve an economy of scale in programming costs associated with the change in fee structure methodology.
The Current Organization Does Not Maximize the Utilization of Personnel.	Change the Status of the Interim Chief Building Official Position to Permanent. Eliminate the vacant Supervising Building Inspector position and upgrade one (1) Building Inspector I/II position to a Building Inspector III.

A summary of total budgetary impacts associated with these recommendations is provided below:

Recommendation	Net Cost Increase / (Savings)
Contract Services authorization to augment existing building inspection staffing	$60,000
Eliminate one (1) Building Inspector II/I from counter operations	($92,000)
Add one (1) full-time Permit Technician	$62,400
Contract Services authorization to augment existing plan review staffing levels	$88,000
Cash outlay for new permitting system	$375,000
Elimination of one Admin Clerk II Position	($48,000)
Add one (1) Application Specialist II for software implementation and support	$79,000
Revision to January 2009 fee study	$25,000
Elimination of one (1) vacant Supervising Building Inspector position and upgrade of an existing Building Inspector I/II to a Building Inspector III	($116,800)
TOTAL	**$432,600**

Recommendations made by the project team indicate a cost increase of $432,600 required over the next year required to maintain existing service levels.

In addition to these recommendations, there are a number of opportunities that could be accomplished with little to no fiscal impact, including:

- Accomplish concurrent plan review with other reviewing departments. The Building Division currently waits for the Planning, Engineering and Fire departments to perform their first review of the building plans before starting their review

- Establish agreed upon cycle time objectives for all reviewing departments by project type as shown in the table below:

Basic non-structural Residential Alterations and Improvements, Simple Trade (MPE only) permits, - All departments perform Over the Counter review - Review can be completed in approximately 2 hours
Single family additions: - Planning – 1 week - Engineering – 1 week - Building – 1 week
Tenant Improvements: - Planning – 1 week - Engineering – 1 week - Building – 1 week
Commercial New: - Planning – 4 weeks - Engineering – 4 weeks - Building – 4 weeks
Residential New: - Planning – 3 weeks - Engineering – 3 weeks - Building – 3 weeks

- Website Improvements:

  - Document the timing of the Inspection process according to various types of construction projects. Offer pre-construction meetings to developers of larger projects.

  - Provide sample plan review templates.

- Post cycle time review objectives for first plan submittal review and re-submittals for all reviewing departments.

- Provide a summary of common plan check defects seen on building permit plans.

- Develop a routing matrix for counter personnel by project type. Currently counter staff uses discretion on each project.

- Train counter staff and plan review personnel to perform simple zoning clearances on building permits for items such as repeat production home plans, pools, etc.

- Update existing informational handouts and allocate space to the County for a kiosk in the combined City / County permit counter area.

With an objective to maintain existing service delivery levels, the Division should implement the project team's staffing and organizational change recommendations, and focus on opportunities for improvement identified in the Best Management Practices Analysis, Chapter 4, that require little to no monetary investment.

(3) Forming a Joint Powers Authority Would Leverage Resources, Maintain Service Levels, and Balance the Short-Term and Long-Term Needs for Regional Plan Check and Building Inspections.

Municipalities across the State of California and the United States are continuing to explore alternative service delivery approaches to leverage resources, become cost-effective, and maintain service levels, in order to face a number of challenges, such as:

- Decreasing budgets and resources
- Workforce shortages and planning challenges
- Fragmentation of service delivery to the public
- Advancing citizen expectations
- Increasing and diversifying service demands

The alternative service delivery approaches to address these types of challenges involve regionalizing and consolidating staff resources, technology, services, processes, etc.; as well as contracting for services with other government entities and / or commercial service providers, which includes the following alternatives:

- Remain as separate legal entities and enter a mutual contract to purchase a new permit information system.
- Enter a contracting relationship whereby the City of Modesto contracts with Stanislaus County for services or vice versa.
- Form a Joint Powers Authority (JPA) and completely regionalize services as a separate entity from either the City or the County.

The following table presents a summary of the advantages and disadvantages for each service delivery option:

Approach	Advantages	Disadvantages
Maintain Existing Approach to Services	• No shared transitional costs to City or County. Each entity can continue to focus on their own operations. • Small cost savings to the City.	• Missed opportunities to leverage staffing resources, information technology resources and service delivery methods. • Higher cost to the County given immediate technology needs.
Separate Entities with Mutual Software Purchase	• Shared costs of permit system and technology upgrades.	• Missed opportunities to achieve economies of scale in staffing and other operational procedures. • Significant capital outlay required for the purchase of two software systems.
City Contracts Services from County	• Leveraging of resources for both entities. • City would have flexibility in staffing levels based on need. • Significant cost savings for the City. • Cooperation on regional challenges and solutions. • Self-funded through cost recovery fees for service for plan check and building inspections.	• Potential loss of control or authority by the City (e.g., for employee selection, etc.) • Missed opportunities to regionalize building code application and enforcement. • Potential resistance from the community. • Potential resistance from labor unions. • County is behind City technologically and in many best practice areas of service delivery.

Approach	Advantages	Disadvantages
Joint Powers Authority	• Cost savings for both agencies. • Flexible and easy to form, also easy to dissolve. • Large economy of scale achieved in purchasing one permitting system. • Creation of regionalized building regulations/code administration. • Leverage of staffing resources. • Self-funded through cost recovery fees for service for plan check and building inspections. • Elimination of general fund subsidy required by City. • Lays groundwork for future consolidation for other development review functions such as fire prevention, and/or other City/County functions such as building related code enforcement. • Flexibility in utilizing contract services to augment core staffing levels. • Limits issues and challenges associated bargaining units and MOUs.	• Requires significant mutual trust to form. • Removes community development department-head direct management authority over the plan check and building inspection processes. • May cause additional issues and levels of inter-agency coordination for timely service delivery. • May require a fee increase to fully recover operating and infrastructure costs, beyond the respective policy objectives of the City and County.

The following presents a summary of each service delivery option from a fiscal impact perspective to the City:

Approach	Year One Savings, Increase, or Transitional Costs	On-Going Savings or Cost Increase
Maintain Existing Approach to Service Delivery	Savings of $133,000	Technology needs of $1 to $1.5 million over 7 years ($200,000 per year) Continued general fund subsidy of up to $700,000 per if no fee increase
Separate Entities with Mutual Software Purchase	$300,000 technology investment	Technology needs of $1 to $1.5 million over 7 years ($200,000 per year) Continued general fund subsidy of up to $700,000 per if no fee increase

Approach	Year One Savings, Increase, or Transitional Costs	On-Going Savings or Cost Increase
City Contracts Services from County	$300,000 technology investment Savings of $600,000 in operating costs.	Technology needs of $1 to $1.5 million over 7 years ($200,000 per year) Elimination of general fund subsidy of up to $700,000 per year (assuming fees for service are set at full cost recovery)
Formation of Regionalized Building Department via JPA	$270,000 technology and fee study investment, total of $72,000 investment required after subtracting operating cost savings.	Savings of $198,000 in operating costs, in addition to the elimination of any general fund subsidies (assuming fees for service are set at full cost recovery).

The following presents a summary of each service delivery option from a fiscal impact perspective to the County:

Approach	Year One Savings, Increase, or Transitional Costs	On-Going Savings or Cost Increase
Maintain Existing Approach to Service Delivery	Investment of $407,600 for technology and staffing needs	Technology needs of $1 to $2.7 million over 7 years ($250,000 per year) Continued revenue shortfall if no fee increase.
Separate Entities with Mutual Software Purchase	$379,000 technology investment	Technology needs of $1 to $2.7 million over 7 years ($250,000 per year) Continued revenue shortfall if no fee increase.
City Contracts Services from County	$379,000 technology investment Increase in operating costs of $1.2 million to acquire staff for City	Technology needs of $1 to $2.7 million over 7 years ($250,000 per year) Continued revenue shortfall if no fee increase.

Approach	Year One Savings, Increase, or Transitional Costs	On-Going Savings or Cost Increase
Formation of Regionalized Building Department via JPA	$270,000 technology and fee study investment, total of $99,000 investment required after subtracting operating cost savings.	Savings of $171,000 in operating costs

To address both immediate and long-term needs, the City and County should pursue formation of a JPA, as it would provide cost-effective access to an upgraded permit information system, as well as enhanced leveraging of resources and service delivery. As this assessment has demonstrated, the need for upgrade and replacement of both jurisdictions' permitting systems is the most immediate need for consideration, especially for the County. While there exists an opportunity for the City and County to leverage purchasing power for new respective systems, there are further economies of scale to be gained if one system can be purchased and fully integrated to not only provide plan check, permitting, and building inspections services to the entire region, but also interface with any disparate financial systems currently in place in the City and County.

The following are the key advantages to formation of a JPA as evaluated by the project team:

- Formation of a JPA would allow the City and County to leverage technology resources through the purchase of one software system rather than two. The project team estimates this would provide a combined savings of between $500,000 and $1 million, over 7 years. In addition, the initial cash investment for technology resources would be significantly reduced.

- Most of the County's workload occurs within 20 miles of the City/County building where the jurisdictions' operations are already co-located. It makes sense to combine deployment of inspection resources in this manner.

- Regionalization of the City and County's building permitting operations would require analysis of existing local Building Code ordinances and administrative

codes. Adoption of a regionalized code offers many benefits to the community at large, and paves the way for other jurisdictions in the County to join in the future. The JPA would set the precedence for uniformity in code interpretations between the City and County.

- There are 26 County-owned "islands" of property within Modesto's City limits. Regionalization of the construction approval and building code interpretations would provide a benefit to the community for economic development, as well as leverage building inspector resources better on a daily basis.

- Regionalization of building services paves the way for regionalization of other services and cooperation agreements that could save money and provide further benefits, such as building related code enforcement, and fire code review.

- A slow economic period is an opportune time to enter this venture as a basis for high standards of service delivery as the economy returns.

- JPA formation allows flexibility for labor negotiations, as well as removes the limitation for the County to contract for non-special services such as building inspection, etc. Contractor augmentation for fluctuations in workload are a cost saving mechanism.

- Both the City and County achieve a total cost savings in formation of a JPA of approximately $369,000. Both the City and County achieve savings in year-one which can be applied toward transition costs.

The Matrix Consulting Group recommends that a City and County regionalization committee review, consider, and implement the recommendations in this report as pertaining to formation of a JPA for the delivery of building permitting, plan review, and inspection services.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-315

RESOLUTION ACCEPTING THE TRANSFER OF WASTEWATER CAPACITY FROM MODESTO TALLOW COMPANY TO THE CITY OF MODESTO IN THE AMOUNT OF 5.45 MILLION GALLONS OF FLOW, 225,317 POUNDS OF BIOLOGICAL OXYGEN DEMAND (BOD), AND 73,228 POUNDS OF TOTAL SUSPENDED SOLIDS (TSS) VALUED AT $812,779 IN LIEU OF A MONETARY PAYMENT

WHEREAS, on January 27, 2009, the Council, by Ordinance 3503-C.S., approved the creation of a City Wastewater Treatment Capacity Banking and Transfer Program (Program) for the purpose of creating incentives for economic development, and

WHEREAS, Ordinance 3503-C.S. added Article 9 titled "Wastewater Permitted Capacity Banking and Transfer" to Chapter 6 of Title 5 of the Modesto Municipal Code, and

WHEREAS, Modesto Tallow Company has agreed to transfer ownership of wastewater capacity to satisfy its final obligation for reservation fees from January 1, 2007, through March 5, 2009, and

WHEREAS, the transferred capacity, consisting of flow, BOD, and TSS, will be placed in the Program for use according to the provision of the Capacity Banking Ordinance, and

WHEREAS, Modesto Tallow Company will be retaining its remaining capacity of 588.49 gallons of flow, 14,574 pounds of BOD, and 4,736 pounds of TSS, which is subject to the use provisions outlined in Section 5-6.906(h) of the Modesto Municipal Code, and

WHEREAS, this transaction will be the first transfer of capacity into the Program providing capacity for qualified users,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the transfer of wastewater capacity from Modesto Tallow Company to the City of Modesto in the amount of 5.45 million gallons of flow, 225,317 pounds of Biological Oxygen Demand (BOD), and 73,228 pounds of Total Suspended Solids (TSS) valued at $812,779 in lieu of a monetary payment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-316

A RESOLUTION APPROVING THE DESIGN AND SPECIFICATIONS FOR DOWNTOWN CORE SIDEWALK SIGNS

WHEREAS, the City Council has introduced an Ordinance adding Article 8 to Chapter 2 of Title 10 of the Municipal Code and an Ordinance amending Sections 28-3-9, 29-3-9 and 32-3-9 of the Zoning Map to establish a Downtown Core (DC) Zone and reclassify properties located therein at its regularly scheduled meeting on July 13, 2010, and

WHEREAS, the proposed DC Zone allows special signs called Downtown Core Sidewalk Signs, and

WHEREAS, staff prepared design and specifications for the Downtown Core Sidewalk Signs within the proposed DC Zone, and

WHEREAS, the Planning Commission on June 21, 2010, in the Chambers, 1010 Tenth Street, Modesto, California, recommended approval of the proposed design and specifications for the Downtown Core Sidewalk Signs,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it approves the design and specifications for Downtown Core Sidewalk Signs as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that this resolution shall not become effective unless and until the Ordinance Adding Article 8 to Chapter 2 of Title 10 of the Modesto Municipal Code Relating to Downtown Core first becomes effective.

BE IT FURTHER RESOLVED that the design and specifications for Downtown Core Sidewalk Signs are to be administered by the Downtown Improvement District in accordance with the provisions of the Downtown Core (DC) Zone.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 13th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

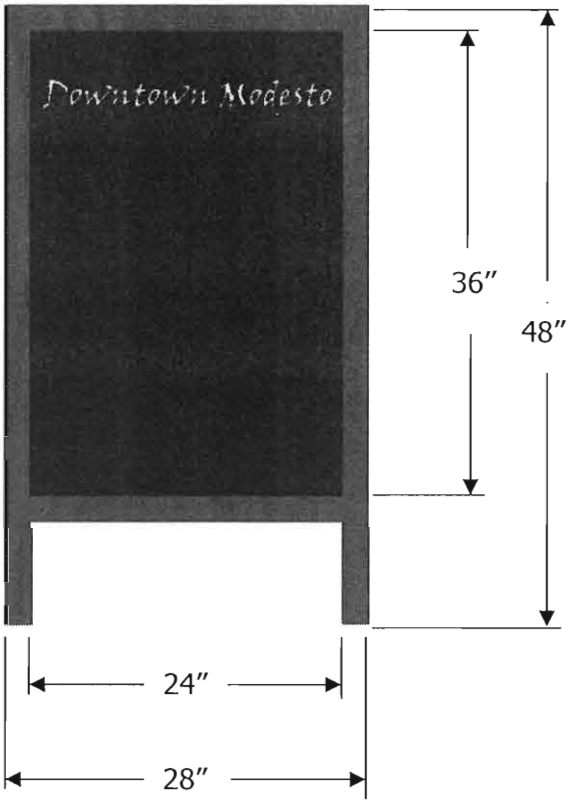
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Downtown Core Sidewalk Signs



Sign Size

Overall Height – 48″ max

Overall Width – 28″ max

Sign Panel Height – 36″ max

Sign Panel Width – 24″ max

Sign Design

Frame – Wrought iron or stained and sealed wood.

Sign Panel – Blackboard or Black Dry-Erase Board.

Streamers/Balloons – Not permitted.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-317

A RESOLUTION FINDING THAT THE DOWNTOWN CORE ZONE PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, 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 2010-14 ("Initial Study") reviewed the proposed Downtown Core Zone project ("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 July 3, 2010, the City caused to be published a 10-day notice of the City's intent to make a finding that the proposed Project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on July 13, 2010, 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 Downtown Core Zone 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. That the proposed Project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the Project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed Project that require Project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this Project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the Project shall be incorporated in the Project.

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010-14

For the proposed:

Downtown Core Zone (CODE-10-002) and (Rez-10-001)

(Creation of a new Downtown Core, DC, Zone and Rezoning the downtown core area to the new DC Zone)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

4 June 10

Updated: December 2009

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City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Downtown Core Zone (CODE-10-002) is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). This project includes the creation of a new Downtown Core (DC) Zone and rezoning the downtown core area to the newly created DC Zone. When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

This document is tiered from both the 2008 Urban Area General Plan Master EIR (SCH #2007072023) and the Modesto Redevelopment Master Plan Program EIR (SCH # 2006071118).

II. PROJECT DESCRIPTION

A. Title: Downtown Core (DC) Zone

B. Address or Location: Area bounded by L Street from 6th to 12th Street, 12th Street from L to K Street, K Street from 12th to 14th Street, 14th Street from K to G Street, G Street from 14th to 12th Street, 12th Street from G to F Street, F Street from 12th to 6th Street, and 6th Street from F to L Street, as shown on Figure 1.

C. Applicant: City of Modesto, Community and Economic Development Department

D. City Contact Person: H. Brent Sinclair, AICP

Project Manager: Josh Bridegroom
Department: Community and Economic Development
Phone Number: 209. 577.5267
E-mail address: jbridegroom@modestogov.com

E. Current General Plan Designation(s):
RPD, Redevelopment Planned District

F. Current Zoning Classification(s):
Zoning in the project area is C-2, C-M, M-1, and P-D (Planned Development). The Planned Development zones are specific to a site; those included in the project area are P-D 165, P-D 190, P-D 322, P-D 372, P-D 389, P-D 578, P-D 582 and P-D 590.

G. Surrounding Land Uses:

North: primarily office uses adjacent to the project area
South: office, industrial, and some residential uses adjacent to the project area
East: primarily office uses adjacent to the project area
West: State Route 99

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

This project will amend the Modesto Municipal Code to create a new Downtown Core (DC) Zone, and rezone the downtown core area from C-2, C-M, M-1 and P-D Zones Nos. 165, 190, 322, 372, 389, 578, 582 & 590 to the newly created Downtown Core (DC) Zone. The project will also establish a design for sandwich board signs to be used in the downtown core area.

The Downtown Core (DC) Zone emphasizes building form over building function. It focuses on the way buildings interface with the public environment rather than the activities that take place inside of them, thereby facilitating mixed use development. The development provisions consider elements such as parcel size, building placement and configuration, uses, parking provisions and encroachments. The DC Zone proposes to organize the downtown core into three districts, as shown on the Planning District Map (attached): the Central District, the Transition District and the Buffer District.

Central District (CD) – This district is intended to foster the most intensive and active urban environment in the Downtown Core, while ensuring an overall human scale to development. This is accomplished with large, but unobtrusive building envelopes that accommodate a mixture of uses, including residential, with an interface that promotes a very strong public/private connection and lively streetscape. The minimum building height is three stories and the maximum is 15 stories.

Transition District (TD) – This district is intended to foster an intensive and active urban environment, but at a reduced scale from what is found in the Transition District. This is accomplished with medium-large building envelopes that accommodate a mixture of uses, including residential, with an interface that promotes a strong public/private connection and lively streetscape. The minimum building height is two stories and the maximum is eight stories if the site is adjacent to sites in the Central or Transition District, and the maximum height is six stories if the site is adjacent to the Buffer District.

Buffer District (BD) – This district is intended to provide a buffer between the more intensive Central and Transition Districts and the less intensive uses located on the southern and eastern sides of the Downtown Core. This is accomplished with smaller building envelopes that are primarily residential or live/work space. The sense of connection to the public realm is still strong, but there is a more distinctive transition between the public realm and the private realm. The minimum building height is one story and the maximum is three stories.

The Districts include areas of special consideration for high-speed rail, historic preservation and historic resources. Development occurring within or adjacent to these areas will be guided by principles that recognize the unique nature of the sites.

The proposed project falls under the following anticipated subsequent projects from the General Plan Master EIR: II.C-10 (Redevelopment Plan) and II.C-5 (Zoning).

Section II.C-10 (Redevelopment Plan) identifies that the 2007 Redevelopment Master Plan is consistent with the Urban Area General Plan and that the City has the authority to impose land use and development controls pursuant thereto.

> The proposed Downtown Core (DC) Zone imposes land use and development controls through implementation of Policy 4.19 of the Redevelopment Master Plan: "Implement a specific area plan that encourages mixed-use development in the Downtown Core."
>
> The Redevelopment Master Plan's guiding goals and policies pertaining to the development of a specific area plan for the downtown core were used to establish the development provisions for the Downtown Core (DC) Zone, including:
>
> > Page 56 – "Application of new development standards should dictate that the Downtown Core will include the highest residential densities and the greatest intensity of land uses in the City."
> >
> > The Downtown Core (DC) Zone proposes to establish minimum thresholds for development intensity, including minimum lot coverage and building stories, not otherwise required within the City.
> >
> > Page 17 – "Encourage a concentration of new retail in the downtown core with an additional 80,000 square feet of food and beverage establishments."
> >
> > The Downtown Core (DC) Zone proposes to eliminate or substantially reduce the parking requirement for ground level uses, where retail is anticipated to prefer to locate.
> >
> > Page 18 – ". . . density ranges . . . as high as 60-80 dwelling units per acre within the Downtown Core."
> >
> > The Downtown Core (DC) Zone proposes to allow shared and off-site parking, thereby allowing development at overall higher densities than what was previously permitted.

Section II.C-5 (Zoning) identifies that rezoning is determined to be within the scope of the Master EIR if it is consistent with the Urban Area General Plan or an approved comprehensive plan.

> Since the Downtown Core (DC) Zone was developed pursuant to the goals and policies of the Redevelopment Master Plan and the Redevelopment Master Plan, together with its goals and policies, has been deemed consistent with the Urban Area General Plan, as specified above, the Downtown Core (DC) Zone is consistent with the Urban Area General Plan.

Furthermore, the General Plan provides maximum development scenarios for the downtown area in Chapter III (Section B.5, page III-7 & Table III.1). The proposed Downtown Core (DC) Zone limits overall intensity and density within the Downtown Core to that assumed by the associated Community Development Policies of the General Plan.

I. Other Public Agencies Whose Approval is Required:
No agencies other than the City of Modesto are responsible for project approval.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	_____	_____
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	X	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	X	☐

Discussion:

(1) The project area lies entirely within the City of Modesto and no other agency has approval authority over development projects in the project area.

(2,6) No modifications to the 2008 Urban Area General Plan are proposed as part of this project. No significant impacts are expected to occur beyond those identified in the Urban Area General Plan Master EIR and all relevant mitigations/policies will be applied.

(3) The proposed project does not include changes to federal, state, regional, or county regulations.

(4) There is no new information regarding the presence of significant resources in the project area and downtown Modesto has been urbanized since the area was settled, in the mid-19th century.

(5) Downtown Modesto lies within the planning area established by the Urban Area General Plan.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the

criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:		
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	X	☐

Discussion:

(1) The Master EIR was certified in October 2008.

(2) (a) The current economic recession has slowed development substantially, minimizing changes in the built environment.

(b) Staff is unaware of any new information regarding environmental effects or conditions that would affect the adequacy of the Master EIR.

(c) Mitigations/policies in the Master EIR will be applied to new development as anticipated when the Master EIR was certified.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes TC-25, TC-26, TC-43, and TC-47 from the MEIR and Mitigations 4.9-6a and 4.9-6b from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☐	☐	☐	**X**
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	X
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☐	☐	☐	X
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☐	☐	☐	X
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☐	☐	☐	X
7) The proposed project would result in an increase	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.				

Discussion:

The proposed project implements Master EIR mitigations/policies TC-1, TC-5, TC-12, TC-13, TC-15, TC-28, TC-29, TC-34, TC-35, TC-43, and TC-63. As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10(Redevelopment Plan) and II.C-5(Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) Since, as identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan, it would not generate 100 or more peak hour trips beyond those anticipate by the General Plan Master EIR. City Engineering and Transportation staff has not determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures. Furthermore, Policies TC-25 and TC-26, articulated in the General Plan Master EIR, recommend the City consider mitigation other than road widening on roadways at Level of Service F and exempt infill and redevelopment projects from the City's street width and right-of-way standards if safety, operations, and non-motorized transportation are not compromised.

The General Plan Master EIR indicates on Figure V.1.3a that roadway segments in the downtown area operated in 2005 during the PM peak hour at various Levels of Service, from A-B-C to D, E, and F. The daily Level of Service in 2005 (Master EIR Figure V.1.3b) shows that only a portion of K Street operates at Level of Service F. The 2025 PM peak hour (Master EIR Figure V.1.4a) shows that most roadways in the downtown area may operate at Level of Service F. Daily Level of Service in 2025 (Master EIR Figure V.1.4b) shows that the same roadways will operate somewhat better, at Level of Service D or F.

The roadways in the downtown area are generally exempt from Modesto's current street width and right-of-way standards because safety in the downtown area is good and because bicycle and pedestrian transportation is readily accommodated. Widening of roads would require either reducing sidewalk widths and eliminating plans for bike lanes or building demolition and would result in higher traffic speeds. Road widening would reduce safety and/or capacity for bicyclists and pedestrians and would compromise the project objectives.

(2) As described in the 2008 General Plan Master EIR, the County CMA, StanCOG, has opted out of preparing a Congestion Management Plan since 1996.

(3,4) Since, as identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan, it would not cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile

vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR. Nor would it cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR. The RDA Program EIR identifies two localized mitigations to be applied at specific locations in the Downtown Core: Mitigations 4.9-6a and 4.9-6b.

(5) Staff has determined that the Downtown Core is an excellent example of a mixed-use area in which parking can be shared by different uses. Some uses, such as residential development, require more parking at night, while others, such as office and retail development, require more parking during the day. Sharing parking between these uses makes more efficient use of land. Staff will evaluate each request for shared or reduced parking to determine whether sharing parking or reducing the parking requirements is warranted. No impacts are expected.

(6) The proposed project, when combined with shared parking and reduced parking requirements, is consistent with efforts to encourage the use of modes of transportation other than the private automobile. No impact is expected.

(7) Development under the proposed Downtown Core Zone will facilitate trip length reductions by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree. This will help reduce per capita vehicle miles traveled.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes measures AQ-3, AQ-4, AQ-7, AQ-9, AQ-17, AQ-18, AQ-26, AQ-39, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 from the MEIR and Mitigations 4.1-1a, 4.1-1b, 4.1-2, and 4.1-5 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☐	☐	☐	X
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☐	☐	☐	X
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☐	☐	☐	X
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☐	☐	☐	X
5) The proposed project would create objectionable odors affecting a substantial number of people.	☐	☐	☐	X

Discussion:

The proposed project implements the following mitigations/policies from the 2008 Urban Area General Plan Master EIR: AQ-1, AQ-3, AQ-4, and AQ-9. As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in

compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) Since the air quality impacts of this project are anticipated to be primarily traffic-related, and the project establishes a mixed use environment, which is anticipated to reduce the per capita vehicle miles traveled, the project is not anticipated to exceed SJVAPCD thresholds. In addition, as identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, the development assumptions for the project site will not be exceeded.

(2,3) All relevant Best Management Practices identified in the UAGP Master EIR will be applied as development policies. These include AQ-3, AQ-4, AQ-7, AQ-9, AQ-17, AQ-18, AQ-26, AQ-39, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 and Mitigations 4.1-1a and 4.1-1b from the RDA PEIR will be applied.

(4) Because the project maximum buildout scenario is limited to the Community Development Policies of the General Plan, no impacts on sensitive receptors that were not anticipated in the 2008 UAGP Master EIR are anticipated.

(5) The proposed project, a code amendment shifting the emphasis of development from use to building form in a 42-block area of the Redevelopment Master Plan area, is no more likely than development under the existing zoning code to result in objectionable odors affecting large numbers of people. Nevertheless, Mitigation 4.1-5 from the RDA PEIR will be applied.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes measures N-1, N-2, N-3, N-6, and N-7 from the Master EIR and Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☐	☐	X
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☐	☐	☐	X
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-4) The proposed project, a code amendment shifting the emphasis of development from use to building form in a 42-block area of the Redevelopment Master Plan area, is no more likely than development under the existing zoning code to result in exceedances of city noise standards, ambient noise levels, or substantial temporary increases in noise. Relevant general plan mitigations/policies relating to urban noise will be applied to development under the proposed code as it would to development under existing zoning. These measures include N-1, N-2, N-3, N-6, and N-7. Additionally, Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR will be applied.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no appropriate mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☐	☐	☐	X
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☐	☐	X	☐
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☐	☐	☐	X
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-4) The proposed project, a code amendment shifting the emphasis of development from use to building form in a 42-block area of the Redevelopment Master Plan area, is no more likely than development under the existing zoning code to result in impacts on agricultural land. The affected properties are already urbanized. In addition, the project streamlines the process for development within the downtown core, thereby incentivizing infill as opposed to Greenfield development. The proposed Downtown Core Zone is consistent with Urban Area General Plan Master EIR mitigation/policy AL-15.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to development occurring as a result of this project includes WS-1, WS-2, WS-6, WS-11, WS-12, WS-13, WS-14, WS-15, WS-29, WS-30, and WS-33 from the Master EIR and Mitigation 4.8-1 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	X
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☐	☐	☐	X
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-3) As identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan. Consequently, no impacts greater than those disclosed in the 2008 General Plan Master EIR are expected to occur. The project would, therefore, also be consistent with adopted water supply policies in the 2008 Urban Area General Plan Master EIR, which include WS-1, WS-2, WS-6, WS-11, WS-12, WS-13, WS-14, WS-15, WS-29, WS-30, and WS-33 and Mitigation 4.8-1 from the RDA Program EIR.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction

noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigations to be applied to this project include SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 from the Master EIR and Mitigation 4.8-1 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☐	☐	☐	X
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-3) As identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan. Consequently, no impacts greater than those disclosed in the 2008 General Plan Master EIR are expected to occur. The proposed project would, therefore, also be consistent with sewer service mitigations/policies in the 2008 Urban Area General Plan Master EIR, which include SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 and Mitigation 4.8-1 from the RDA Program EIR.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no appropriate mitigations/policies to apply to this project from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☐	☐	☐	X
2) Consultation with the California Department of	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.				
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☐	☐	☐	X
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	X
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☐	☐	☐	X

Discussion:

(1-6) As shown on Figure V-7-1 of the 2008 Urban Area General Plan Master EIR, the 42-block Downtown Core lies well outside of riparian areas and the project would thus be expected to have no impact on any sensitive habitat or species or movement of migratory or resident species and would have no impact on wetlands. The project would not conflict with any policies or ordinances pertaining to sensitive habitat or species or biological resources. There are no habitat conservation plans or natural community conservation plans and so none would be affected.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AH-1, AH-6, AH-7, and AH-16 from the Master EIR and Mitigations 4.3-1 and 4.6-1 (paleontology) from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☐	☐	X	☐
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
landmark from the Modesto inventory.				
3) The proposed project would modify or demolish a structure more than 50 years in age.	☐	☐	☐	X
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	☐	☐	☐	X
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance or paleontological resources.	☐	☐	☐	X

Discussion:

The proposed project specifically seeks to preserve historic resources. It implements mitigation/policy AH-1 and encourages preservation of historic resources consistent with mitigations/policies AH-2 and AH-5. In addition, as identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-4) As identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan. Building footings are expected to be no deeper than the depth to which soil is currently disturbed by footings and infrastructure and the project area lies outside the archaeological resource area, so no impacts greater than those disclosed in the 2008 General Plan Master EIR are expected to occur. The proposed Downtown Core Zone would be consistent with historical and archaeological mitigations/policies in the 2008 Urban Area General Plan Master EIR, which include AH-1, AH-6, AH-7, and AH-16.

(5) The City has no policies or ordinances that protect biological resources aside from those stated in Chapter V, Section 7, of the Master EIR. The Downtown Core lies outside biological resource areas and is expected to have no impact on those areas. Mitigation 4.6-1, addressing the possibility of discovering paleontological resources (RDA Program EIR) will also be applied.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project include SD-2, SD-3, SD-4, SD-5, SD-6, SD-7, SD-8, SD-9, and SD-11 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would substantially	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.				
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) As identified above, this project's maximum buildout scenario is limited to the Community Development Policies of the General Plan, and the following GP MEIR mitigations/policies would be applied to development in the Downtown Core: SD-2, SD-3, SD-4, SD-5, SD-6, SD-7, SD-8, SD-9, and SD-11 and Mitigation 4.8-1 from the RDA Program EIR.

(2-3) The 42-block Downtown Core area is fully urbanized. New development will not increase the amount or rate of runoff or cause flooding, as compared to existing conditions. The City will be responsible for approving the design of new infrastructure and ensuring that new development is consistent with Low Impact Development policies. No additional impact is expected, as compared to that disclosed in the Urban Area General Plan Master EIR.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☐	☐	X
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☐	☐	☐	X
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☐	☐	☐	X
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	☐	☐	X
6) The proposed project would violate water quality standards or waste discharge requirements.	☐	☐	☐	X
7) The proposed project would substantially alter	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.				
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☐	☐	☐	X

Discussion:

(1-8) The 42-block Downtown Core lies entirely outside the 100- and 200-year floodplains and is fully urbanized, so new development would not be expected to appreciably increase impervious surfaces or runoff or alter drainage patterns or create new erosion in the project area. The proposed project will comply with mitigations/policies FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 in the 2008 Urban Area General Plan Master EIR.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes POS-6, POS-8, POS-11, and POS-12 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would eliminate parks or open space.	☐	☐	☐	X
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-3) In accordance with mitigation/policy POS-6, and with regard to acreage, service area, location and street frontage standards, the existing parks in the Baseline Developed Area, which

includes the Redevelopment Area, are considered adequate and acceptable. No parks or open space will be eliminated as part of the project and no development greater than that assumed in the 2008 Urban Area General Plan is allowed at this time. Therefore, the project will result in no impacts greater than those disclosed in the Urban Area General Plan Master EIR.

Parks and open space serving the area include Graceada, McClatchey, Moose, Beardbrook, the County Courthouse, and Tuolumne River Regional Park. The proposed project complies with mitigations/policies POS-6, POS-8, POS-11, and POS-12.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these polcies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes S-3, S-8, and S-10 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether

the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-2) Modesto is represented on Modesto City Schools' Facilities Planning Committee, consistent with mitigations/policies S-3 and S-8 and communication between the City of Modesto and Modesto City Schools is ongoing. Mitigation/policy S-10 will continue to be applied to new development to ensure compliance with SB 50/Proposition 1A.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes PS-8 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-2) The project is expected to have no impact on policing services, since development potential under the current zoning code and the proposed project are both constrained to the

assumptions in the general plan. All new development must comply with mitigation/policy PS-8.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations/policies from the Master EIR need be applied to the proposed Downtown Core Zone. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would result in the need	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.				
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	☐	☐	☐	X

Discussion:
As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-3) Because the proposed Downtown Core Zone would not result in development greater than assumed in the 2008 Urban Area General Plan, no impacts to fire service or fireflows is anticipated.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations/policies from the Master EIR need be applied to the proposed Downtown Core Zone. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	☐	☐	☐	X
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-2) Because the proposed Downtown Core Zone would not result in development greater than assumed in the 2008 Urban Area General Plan, no impacts related to solid waste generation or disposal are anticipated.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes HM-5 from the Master EIR and Mitigation 4.4-3 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☐	☐	X
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☐	☐	X
	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.				

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1-2) The proposed project will have no effect on the applicability of the City's hazardous materials policies and all future development will be required to comply with applicable mitigations/policies in the Master EIR. Therefore, hazardous waste generation under the proposed project is likely to be more similar to a household hazardous waste stream than to a commercial hazardous waste than would be the case under the existing zoning code.

(3-4) As each development application is processed, the applicant must disclose whether the project is located on a known contaminated site. Master EIR mitigation/policy HM-5 is applicable to all sites that might be contaminated unbeknownst to the State of California.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes GSM-1, GSM-2, GSM-6, and GSM-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) The proposed project is not located in an area to which mitigations/policies relating to geology, soils, and mineral resources are applied.

(2) Geologic hazards present a fairly uniform level of risk across the 2008 Urban Area General Plan area. Therefore, whether people or buildings are located in one place or another in Modesto, the impacts would be expected to be about the same. No additional impact is anticipated, as compared to that disclosed in the Master EIR.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes E-2, E-3, E-4, E-34, E-40, E-41, and E-42 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☐	☐	☐	X

Discussion:

Road widths as described in the 2008 Urban Area General Plan will remain as they are, consistent with mitigations/policies E-10, E-15, and E-30. The project will also implement mitigations/policies E-1, E-5, E-6, E-7, E-8, E-9, E-17, and E-31. As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) As under the existing zoning code, new development under the proposed Downtown Core Zone must comply with mitigations/policies E-2, E-3, E-4, and E-41, and encourage compliance with mitigations/policies E-34, E-40, and E-42.

(2) There is no reason to expect that energy used during construction, operation, or maintenance of buildings under the proposed code would be different from construction, operation, or maintenance of buildings constructed under the existing zoning code. No additional impact on energy consumption is anticipated to occur, as compared to that disclosed in the 2008 Urban Area General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes VR-3 and VR-4 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	X
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	X

Discussion:

As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) Development under the proposed Downtown Core Zone would be required to comply with mitigations/policies VR-3 and VR-4.

(2-3) Since the provisions of the Downtown Core (DC) Zone were crafted in compliance with the Redevelopment Master Plan, which as identified above, is within the scope of the General Plan, the proposed project would not degrade views to a greater degree than assumed in the Urban Area General Plan.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations/policies from the Master EIR must be applied to the proposed project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☐	☐	X
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☐	☐	☐	X
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☐	☐	X

Discussion:

The project is intended to implement mitigations/policies LUP-41, LUP-42, LUP-43, LUP-44, LUP-45, and LUP-48. As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) The proposed Downtown Core Zone is consistent with Goal I.C.6, page I-5 in the Urban Area General Plan because it promotes higher density, mixed-use development to create a balanced, vibrant downtown.

(2) The Downtown Core and the adjacent areas of Modesto are generally very well-connected, although the downtown area is divided by State Route 99 and to a much lesser degree, the Union Pacific Railroad. The proposed Downtown Core Zone would take no action to make the Downtown Core less well-connected.

(3) The proposed project is intended, in part, to improve compliance with environmental goals, such as energy use, transportation, and air quality by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree.

(4) There is no habitat conservation plan or natural community conservation plan that will be affected by the proposed change in the Downtown Core from the existing zoning code to the proposed Downtown Core Zone.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes CL-25 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☐	☐	X
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☐	☐	X

Discussion:

The proposed project is expected to facilitate achievement of the goals of AB 32. The project implements mitigations/policies CL-3, CL-4, CL-5, CL-12, and CL-13. As identified under the Project Description Section, the Downtown Core (DC) Zone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum buildout scenario is limited to the Community Development Policies of the General Plan. Therefore, it is within the scope of the General Plan Master EIR analysis.

(1) As under the existing zoning code, new development under the proposed Downtown Core Zone must comply with mitigation/policy CL-25 compliance with CL-26 will be encouraged.

(2) Development under the proposed Downtown Core Zone will facilitate trip length reductions by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree.

(3) There is currently no Sustainable Communities Strategy; the project's effect cannot be evaluated.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

The proposed project implements Master EIR mitigations/policies TC-1, TC-5, TC-12, TC-13, TC-15, TC-28, TC-29, TC-34, TC-35, TC-43, and TC-63.

Additional MEIR mitigations/policies to be applied as appropriate to individual development projects proposed pursuant to this Code amendment are TC-25, TC-26, TC-43, and TC-47. The RDA Program EIR identifies two localized mitigations to be applied at specific locations in the Downtown Core: Mitigations 4.9-6a and 4.9-6b.

Degradation of Air Quality:

The project implements mitigations/policies AQ-1, AQ-3, AQ-4, and AQ-9.

Additional mitigations/policies to be applied as appropriate to individual development projects proposed pursuant to this Code amendment are AQ-3, AQ-4, AQ-7, AQ-9, AQ-17, AQ-18, AQ-26, AQ-39, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 from the MEIR. Mitigations 4.1-1a, 4.1-1b, 4.1-2, and 4.1-5 from the RDA PEIR will also be applied to new development.

Generation of Noise:

The appropriate mitigations to be applied as appropriate to individual development projects proposed pursuant to this Code amendment are measures N-1, N-2, N-3, N-6, and N-7 from the Master EIR. Additionally, Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR will be applied.

Effects on Agricultural Lands:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment is measure AL-15 from the Master EIR.

Increased Demand for Long-Term Water Supplies:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes WS-1, WS-2, WS-6, WS-11, WS-12, WS-13, WS-14, WS-15, WS-29, WS-30, and WS-33 from the Master EIR and Mitigation 4.8-1 from the RDA Program EIR.

Increased Demand for Sanitary Sewer Services:

The appropriate mitigations to be applied as appropriate to individual development projects proposed pursuant to this Code amendment include SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 from the Master EIR and Mitigation 4.8-1 from the RDA Program EIR.

Loss of Sensitive Wildlife and Plant Habitat:

There are no appropriate mitigations/policies to apply to this project from the Master EIR.

Disturbance of Archaeological/Historic Sites:

The project implements mitigation/policy AH-1 and encourages preservation of historic resources consistent with mitigations/policies AH-2 and AH-5. Mitigation 4.6-1, addressing the possibility of discovering paleontological resources (RDA Program EIR) will also be applied.

Additional mitigations/policies to be applied as appropriate to individual development projects proposed pursuant to this Code amendment are measures AH-1, AH-6, AH-7, and AH-16 from the Master EIR and Mitigation 4.3-1 from the RDA Program EIR.

Increased Demand for Storm Drainage:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes SD-2, SD-3, SD-4, SD-5, SD-6, SD-7, SD-8, SD-9, and SD-11 from the Master EIR and Mitigation 4.8-1 from the RDA Program EIR.

Flooding and Water Quality:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment to this project includes FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 from the Master EIR.

Increased Demand for Parks and Open Space:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes POS-6, POS-8, POS-11, and POS-12 from the Master EIR.

Increased Demand for Schools:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes S-3, S-8, and S-10 from the Master EIR.

Increased Demand for Police Services:

The project implements mitigations/policies PS-9, PS-10, PS-11, PS-12, and PS-13.

The additional mitigation/policy that will be applied as appropriate to individual development projects proposed pursuant to this Code amendment is PS-8.

Increased Demand for Fire Services:

No mitigations/policies from the Master EIR need be applied to the proposed Downtown Core Zone.

Generation of Solid Waste:

No mitigations/policies from the Master EIR need be applied to the proposed Downtown Core Zone.

Generation of Hazardous Materials:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes HM-5 from the Master EIR and Mitigation 4.4-3 from the RDA Program EIR.

Geology, Soils, and Mineral Resources:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes GSM-1, GSM-2, GSM-6, and GSM-9 from the Master EIR.

Energy:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes E-2, E-3, E-4, E-34, E-40, E-41, and E-42 from the Master EIR.

Effects on Visual Resources:

The appropriate mitigation to be applied as appropriate to individual development projects proposed pursuant to this Code amendment includes VR-3 and VR-4 from the Master EIR.

Land Use and Planning:

The project is intended to implement mitigations/policies LUP-41, LUP-42, LUP-43, LUP-44, LUP-45, and LUP-48.

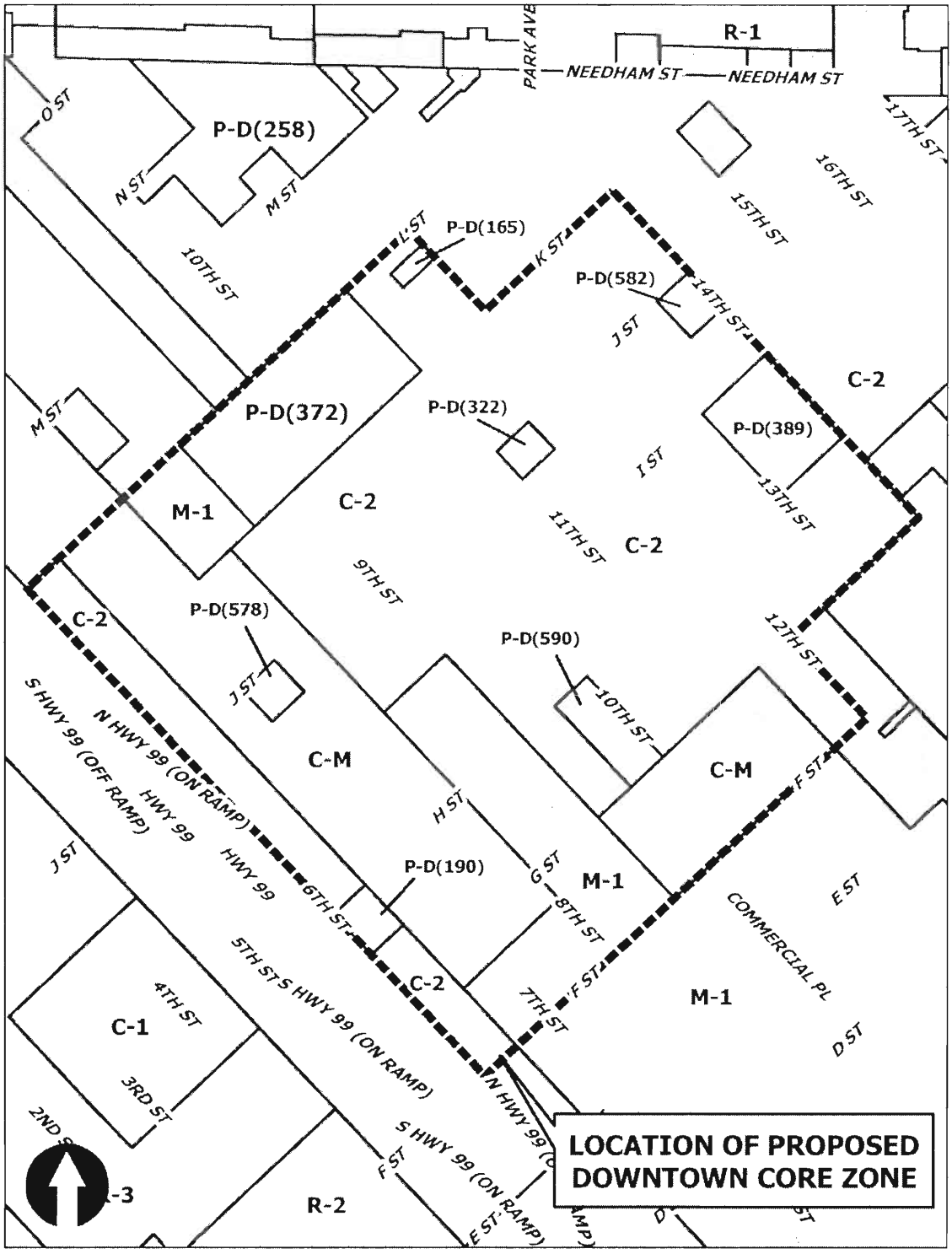
No additional mitigations/policies in the Master EIR need be applied to the project.

Climate Change:

When the proposed project is expected to facilitate achievement of the goals of AB 32. The project implements mitigations/policies CL-3, CL-4, CL-5, CL-12, and CL-13.

New development must comply with mitigation/policy CL-25. Compliance with CL-26 will be encouraged.

Figure 1


R-1
PARK AVE
NEEDHAM ST
NEEDHAM ST
17TH ST
O ST
P-D(258)
N ST
M ST
16TH ST
15TH ST
L ST
P-D(165)
K ST
10TH ST
P-D(582)
14TH ST
J ST
C-2
M ST
P-D(372)
P-D(322)
P-D(389)
I ST
13TH ST
M-1
C-2
11TH ST
C-2
9TH ST
C-2
P-D(578)
P-D(590)
12TH ST
J ST
10TH ST
S HWY 99 (OFF RAMP)
N HWY 99 (ON RAMP)
HWY 99
C-M
C-M
H ST
F ST
J ST
P-D(190)
G ST
M-1
6TH ST
8TH ST
E ST
COMMERCIAL PL
5TH ST S HWY 99 (ON RAMP)
C-2
7TH ST
F ST
M-1
4TH ST
C-1
D ST
3RD ST
N HWY 99
S HWY 99 (ON RAMP)
R-2
LOCATION OF PROPOSED
DOWNTOWN CORE ZONE

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 13th day of July, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-14

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-318

A RESOLUTION APPROVING THE CAPITAL IMPROVEMENT PROGRAM TASK FORCE FOR THE PERIOD JULY 1, 2010 THROUGH JUNE 30, 2010

WHEREAS, in 2008, the City Council initiated the process to evaluate and prioritize capital improvement projects for the annual preparation of the Capital Improvement Program (CIP), and

WHEREAS, the process includes a CIP Task Force consisting of a City Councilmember, a City Planning Commission member, and Airport Advisory Committee member, two representatives of the public-at-large, and interdepartmental staff, and

WHEREAS, the goal of the CIP Task Force is to obtain the input and participation from a broader range of stakeholders, and

WHEREAS, the CIP Task Force is recommending the membership be modified to provide a balance between the City staff and outside members, and

WHEREAS, the CIP Task Force recommends the outside members serve for two years and that appointments be staggered to allow for continuity on the CIP Task Force, and

WHEREAS, the proposed members for the CIP Task Force are:

Outside Members:	
Councilmember	Brad Hawn
Planning Commission member	Chris Tyler
Citizen-at-Large members:	Ron Jeske
StanCOG Citizen Advisory member	Dennis Wilson
Manufacturer's Council member	*Designee*
Chairperson, Land Use & Transportation	
Modesto Chamber of Commerce	*Designee*

Staff members:
Director of Public Works (or designee)
Director of Utility Planning & Projects (or designee)
Director of Community & Economic Development (or designee)
Director of Parks, Recreation & Neighborhoods (or designee)
Director Representing Public Safety (Police Chief, Fire Chief, or designee)
Director of Finance (or designee)

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of Brad Hawn, Chris Tyler, Ron Jeske, Dennis Wilson, Manufacturer's Councilmember designee, Chairperson, Land Use and Transportation Chamber of Commerce designee, Director of Public Works, Director of Utility Planning & Projects, Director of Community & Economic Development, Director of Parks, Recreation & Neighborhoods, Director Representing Public Safety, and the Director of Finance, or their designees, to the Capital Improvement Program Task Force.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-319

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF WASTE HAULING SERVICES FOR NON-HAZARDOUS BRINE FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO ADVANCED CHEMICAL TRANSPORT, INC., MERCED, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT, FOR AN ESTIMATED ANNUAL COST OF $143,220 AND OVER FIVE (5) YEARS OF $716,100

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of waste hauling services for non-hazardous brine, and

WHEREAS, the Purchasing Division issued RFB No. 0910-13 Waste Haul Services for Non-Hazardous Brine to eighteen (18) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Two (2) of the eighteen (18) prospective bidders were located within Stanislaus County, none were local vendors as there are no local vendors which provide these services, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Nine (9) companies chose to respond, one prospective bidder was located in Stanislaus County. All nine (9) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of waste haul services for non-hazardous brine for the Public Works Department, Water Division, to Advanced Chemical Transport, Merced, CA, for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $143,220, and over five (5) years of $716,100, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of waste haul services for non-hazardous brine for the Public Works Department, Water Division, to Advanced Chemical Transport, Inc., Merced, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted each year for this service in Water Division Operating Account #6100-480-5013-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of waste haul services for non-hazardous brine for the Public Works Department, Water Division, to Advanced Chemical Transport, Inc., Merced, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $143,220.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-320

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF ELEVATOR MAINTENANCE AND REPAIR SERVICES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BUILDING SERVICES DIVISION, TO THYSSENKRUPP ELEVATOR CORP., WEST SACRAMENTO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE AN AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $39,600

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for elevator maintenance and repair services, and

WHEREAS, the Purchasing Division issued RFP No. 0910-08 Elevator Maintenance and Repair Services to nine (9) prospective proposers, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, RFP's were formally opened in the City Clerk's office. Four (4) companies chose to respond. All four (4) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of City staff members and a member from the Stanislaus County General Services Agency evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the furnishing of elevator maintenance and repair services for the Parks, Recreation and Neighborhoods Department, Building Services Division, to ThyssenKrupp Elevator Corp., West Sacramento, CA, for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $39,600, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the furnishing of elevator maintenance and repair services for the Parks, Recreation and Neighborhoods Department, Building Services Division, to ThyssenKrupp Elevator Corp., West Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted for the furnishing of elevator maintenance and repair services in Appropriation Units: 0100-340-3415-0235, 0100-370-3731-0223, 6000-350-3583-0235, 6000-350-3584-0235, 6000-350-3585-0235, 6700-340-3412-0223, 6700-340-3415-0223, 7800-350-3513-0235, 8500-350-3524-0235 and 8500-350-3524-0360,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of elevator maintenance and repair services for the Parks, Recreation and Neighborhoods Department, Building Services Division, to ThyssenKrupp Elevator Corp., West Sacramento, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated annual cost of $39,600.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-321

RESOLUTION SUPPORTING THE STATE PARKS AND WILDLIFE CONSERVATION TRUST FUND ACT OF 2010 ON THE NOVEMBER, 2010 STATEWIDE BALLOT

WHEREAS, California's natural resources and wildlife must be preserved and protected for future generations, and

WHEREAS, the California State Park System is essential to protecting these resources for the people of California. Along with the wildlife protection and conservation agencies of the state, the State Park System is responsible for preserving the state's unique wildlife, natural lands and ocean resources, and

WHEREAS, persistent underfunding of the State Park System and wildlife conservation has resulted in a backlog of more than a billion dollars in needed repairs and improvements, threatens the closure of parks throughout the state, and the loss of protection for many of the state's most important natural and cultural resources, recreational opportunities and wildlife habitat, and

WHEREAS, California's State Park System benefits all Californians by providing opportunities for recreation, nature education, preservation of cultural and historic landmarks, and by protecting natural resources that improve the state's air and water quality, and

WHEREAS, Californians deserve a world-class State Park System that will preserve and protect the unique natural and cultural resources of the state for future generations, and

WHEREAS, rebuilding the State Park System and protecting the state's wildlife resources will grow California's economy and create jobs by drawing millions of

tourists each year to contribute to the state's multibillion dollar tourism economy, and

WHEREAS, the State Parks and Wildlife Conservation Trust Fund Act of 2010 will implement an $18 vehicle license fee on most personal vehicles, which will be specifically dedicated to state parks and wildlife conservation, and

WHEREAS, passage of the Wildlife Conservation Trust Fund Act of 2010 will allow entry into State parks at no charge to California licensed vehicles, and

WHEREAS, by law, 4% of the annual Trust Fund revenue will be allocated for grants to public agencies for the operation, management and restoration of urban river parkways, with priority placed on the most underserved urban communities, and

WHEREAS, the Tuolumne River Regional Park (TRRP), an urban river parkway, is eligible to apply to the Department of Parks and Recreation for annual grants for operation, management and restoration and will specifically benefit from this initiative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the State Parks and Wildlife Conservation Trust Fund Act of 2010 on the November 2010 statewide ballot.

BE IT FURTHER RESOLVED that the Council hereby authorizes listing the City of Modesto as a supporter of the State Parks and Wildlife Conservation Trust Fund Act of 2010.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: Geer, Muratore, Olsen

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-322

RESOLUTION APPROVING APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL USED OIL PAYMENT PROGRAMS, ACCEPTING PAYMENT, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS, AND RESCINDING RESOLUTION NO. 2010-107

WHEREAS, pursuant to Public Resources Code §48690, the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, has established the Used Oil Payment Program (OPP) to make payments to qualifying jurisdictions for implementation of their used oil programs, and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the Used Oil Payment Program, and

WHEREAS, CalRecycle's procedures for administering the Used Oil Payment Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the Used Oil Payment Program,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto that it hereby authorizes submittal of a Used Oil Payment Program application to CalRecycle.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents, including but not limited to, applications, agreements, annual reports including expenditure reports and amendments necessary to secure said payments to support our Used Oil Collection Program.

BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the Modesto City Council.

BE IT FURTHER RESOLVED that Resolution No. 2010-107 is hereby rescinded.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-323

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF $112,000 FOR THE SERVICES OF ONE MODESTO POLICE OFFICER/SCHOOL RESOURCE OFFICER AT PETERSEN ALTERNATIVE CENTER FOR EDUCATION CAMPUS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, the Stanislaus County Office of Education (SCOE) requires one Modesto police officer to provide direct law enforcement services, expertise and training, and to act as a School Resource Officer at Petersen Alternative Center for Education campus, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer who can take any enforcement action at the school site, if warranted, and

WHEREAS, the officer's presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the City will be compensated by the SCOE in the amount of $112,000 for the services of one Modesto police officer, and

WHEREAS, the term of this Memorandum Of Understanding is August 12, 2010 to June 2, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding with Stanislaus County Office of Education in the amount of $112,000 for the services of one Modesto Police Officer/School Resource Officer at Petersen Alternative Center for Education campus.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-324

RESOLUTION APPROVING AN AGREEMENT WITH BROWN & CALDWELL FOR ON-CALL ENGINEERING SERVICES FOR THE WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $132,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Water Quality Control (WQC) Division performs a number of tasks associated with Wastewater Collections, Wastewater Maintenance and Operations and Environmental Regulations directly related to operations at the WQC Facilities, and

WHEREAS, in the past, staff has approved one consultant for each On-Call Engineering agreement; however, staff has determined that qualifying several consultants will provide broader experience and allow for more competitive costs in the execution of projects under this On-Call Engineering agreement, and

WHEREAS, many of the services required under this agreement are those that relate directly to WQC treatment processes and are not those of which the City's engineers have expertise such as Certification of Digesters, Ranch Lease Development and Gap Analysis for Wastewater Collections, and

WHEREAS, in accordance with Administrative Directive 3.1, staff solicited and formally advertised Requests for Qualifications (RFQ) for On-Call Engineering for the WQC Division, and

WHEREAS, twenty (20) Statements of Qualifications (SOQ) were received and reviewed by WQC staff and after reviewing all of the SOQs, the top five consultants were selected to be on an On-Call Engineering list for WQC projects, and

WHEREAS, as tasks are identified, a scope of work will be sent to each consultant requesting a scope of services outlining the specific work, schedule and cost estimate associated with the tasks, and

WHEREAS, the scope of services will be reviewed by staff and approval sent to the most responsive bidder, and

WHEREAS, the consultants will perform no work until WQC management has approved the proposed specific task and a written Notice to Proceed is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, staff recommends an On-Call Engineering Services Agreement with Brown & Caldwell be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Brown & Caldwell for On-Call Engineering Services for the Water Quality Control Division for a one-year agreement, with three one-year extension options, at the sole discretion of the City, in an amount not to exceed $132,000 per year.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-325

RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS FOR ON-CALL ENGINEERING SERVICES FOR THE WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $132,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Water Quality Control (WQC) Division performs a number of tasks associated with Wastewater Collections, Wastewater Maintenance and Operations, and Environmental Regulations directly related to operations at the WQC Facilities, and

WHEREAS, in the past, staff has approved one consultant for each On-Call Engineering agreement; however, staff has determined that qualifying several consultants will provide broader experience and allow for more competitive costs in the execution of projects under this On-Call Engineering agreement, and

WHEREAS, many of the services required under this agreement are those that relate directly to WQC treatment processes and are not those of which the City's engineers have expertise such as Certification of Digesters, Ranch Lease Development and Gap Analysis for Wastewater Collections, and

WHEREAS, in accordance with Administrative Directive 3.1, staff solicited and formally advertised Requests for Qualifications (RFQ) for On-Call Engineering for the WQC Division, and

WHEREAS, twenty (20) Statements of Qualifications (SOQ) were received and reviewed by WQC staff and after reviewing all of the SOQs, the top five consultants were selected to be on an On-Call Engineering list for WQC projects, and

WHEREAS, as tasks are identified, a scope of work will be sent to each consultant requesting a scope of services outlining the specific work, schedule and cost estimate associated with the tasks, and

WHEREAS, the scope of services will be reviewed by staff and approval sent to the most responsive bidder, and

WHEREAS, the consultants will perform no work until WQC management has approved the proposed specific task and a written Notice to Proceed is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, staff recommends an On-Call Engineering Services Agreement with Carollo be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers for On-Call Engineering Services for the Water Quality Control Division for a one-year agreement, with three one-year extension options, at the sole discretion of the City, in an amount not to exceed $132,000 per year.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-326

RESOLUTION APPROVING AN AGREEMENT WITH ECO:LOGIC FOR ON-CALL ENGINEERING SERVICES FOR THE WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $132,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Water Quality Control (WQC) Division performs a number of tasks associated with Wastewater Collections, Wastewater Maintenance and Operations, and Environmental Regulations directly related to operations at the WQC Facilities, and

WHEREAS, in the past, staff has approved one consultant for each On-Call Engineering agreement; however, staff has determined that qualifying several consultants will provide broader experience and allow for more competitive costs in the execution of projects under this On-Call Engineering agreement, and

WHEREAS, many of the services required under this agreement are those that relate directly to WQC treatment processes and are not those of which the City's engineers have expertise such as Certification of Digesters, Ranch Lease Development and Gap Analysis for Wastewater Collections, and

WHEREAS, in accordance with Administrative Directive 3.1, staff solicited and formally advertised Requests for Qualifications (RFQ) for On-Call Engineering for the WQC Division, and

WHEREAS, twenty (20) Statements of Qualifications (SOQ) were received and reviewed by WQC staff and after reviewing all of the SOQs, the top five consultants were selected to be on an On-Call Engineering list for WQC projects, and

WHEREAS, as tasks are identified, a scope of work will be sent to each consultant requesting a scope of services outlining the specific work, schedule and cost estimate associated with the tasks, and

WHEREAS, the scope of services will be reviewed by staff and approval sent to the most responsive bidder, and

WHEREAS, the consultants will perform no work until WQC management has approved the proposed specific task and a written Notice to Proceed is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, staff recommends an On-Call Engineering Services Agreement with Eco:Logic be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Eco:Logic for On-Call Engineering Services for the Water Quality Control Division for a one-year agreement, with three one-year extension options, at the sole discretion of the City, in an amount not to exceed $132,000 per year.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-327

RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES FOR ON-CALL ENGINEERING SERVICES FOR THE WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSIONOPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $132,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Water Quality Control Division performs a number of tasks associated with Wastewater Collections, Wastewater Maintenance and Operations, and Environmental Regulations directly related to operations at the WQC Facilities, and

WHEREAS, in the past, staff has approved one consultant for each On-Call Engineering agreement; however, staff has determined that qualifying several consultants will provide broader experience and allow for more competitive costs in the execution of projects under this On-Call Engineering agreement, and

WHEREAS, many of the services required under this agreement are those that relate directly to WQC treatment processes and are not those of which the City's engineers have expertise such as Certification of Digesters, Ranch Lease Development and Gap Analysis for Wastewater Collections, and

WHEREAS, in accordance with Administrative Directive 3.1, staff solicited and formally advertised Requests for Qualifications (RFQ) for On-Call Engineering for the WQC Division, and

WHEREAS, twenty (20) Statements of Qualifications (SOQ) were received and reviewed by WQC staff and after reviewing all of the SOQs, the top five consultants were selected to be on an On-Call Engineering list for WQC projects, and

WHEREAS, as tasks are identified, a scope of work will be sent to each consultant requesting a scope of services outlining the specific work, schedule and cost estimate associated with the tasks, and

WHEREAS, the scope of services will be reviewed by staff and approval sent to the most responsive bidder, and

WHEREAS, the consultants will perform no work until WQC management has approved the proposed specific task and a written Notice to Proceed is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, staff recommends an On-Call Engineering Services Agreement with Nolte be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Nolte Associates for On-Call Engineering Services for the Water Quality Control Division, for a one-year agreement, with three one-year extension options, in an amount not to exceed $132,000 per year.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-328

RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES FOR ON-CALL ENGINEERING SERVICES FOR THE WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $132,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Water Quality Control (WQC) Division performs a number of tasks associated with Wastewater Collections, Wastewater Maintenance and Operations, and Environmental Regulations directly related to operations at the WQC Facilities, and

WHEREAS, in the past, staff has approved one consultant for each On-Call Engineering agreement; however, staff has determined that qualifying several consultants will provide broader experience and allow for more competitive costs in the execution of projects under this On-Call Engineering agreement, and

WHEREAS, many of the services required under this agreement are those that relate directly to WQC treatment processes and are not those of which the City's engineers have expertise such as Certification of Digesters, Ranch Lease Development and Gap Analysis for Wastewater Collections, and

WHEREAS, in accordance with Administrative Directive 3.1, staff solicited and formally advertised Requests for Qualifications (RFQ) for On-Call Engineering for the WQC Division, and

WHEREAS, twenty (20) Statements of Qualifications (SOQ) were received and reviewed by WQC staff and after reviewing all of the SOQs, the top five consultants were selected to be on an On-Call Engineering list for WQC projects, and

WHEREAS, as tasks are identified, a scope of work will be sent to each consultant requesting a scope of services outlining the specific work, schedule and cost estimate associated with the tasks, and

WHEREAS, the scope of services will be reviewed by staff and approval sent to the most responsive bidder, and

WHEREAS, the consultants will perform no work until WQC management has approved the proposed specific task and a written Notice to Proceed is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, staff recommends an On-Call Engineering Services Agreement with West Yost Associates be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates for On-Call Engineering Services for the Water Quality Control Division for a one-year agreement, with three one-year extension options, at the sole discretion of the City, in an amount not to exceed $132,000 per year.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-329

RESOLUTION AMENDING FISCAL YEAR 10-11 MULTIYEAR OPERATING BUDGET FOR 6210-480-5277-0235 TO INCREASE FUNDING FROM $110,000 TO $132,000 AND REDUCING THE BUDGETS IN 6210-480-5212-0235 BY $44,000, 6210-480-5213-0235 BY $22,000, 6210-480-5214-0235 BY $22,000 AND 6210-480-5217-0235 BY $44,000 FOR A TOTAL OF $132,000

WHEREAS, a budget adjustment in the amount of $22,000 is necessary to increase the funding for the On-Call Engineering WQC Multi-Year Operating Org 6210-480-5277-0235, and

WHEREAS, a budget adjustment is needed to reduce the amount of funding in Wastewater Branch 6210-480-5212-0235 by $44,000, Sutter Plant Maintenance Branch 6210-480-5213-0235 by $22,000, Jennings Plant Maintenance Branch 6210-480-5214-0235 by $22,000 and Pre-Treatment Compliance Branch 6210-480-5217-0235 by $44,000 to fully fund the On-Call Engineering Multi-Year Operating Org 6210-480-5277-0235, and

WHEREAS, the Fiscal Year 2010-2011 Operating Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Operating Budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:

Wastewater Branch	6210-480-5212-0235	($44,000)
Sutter Plant Maintenance Branch	6210-480-5213-0235	($22,000)
Jennings Plant Maintenance Branch	6210-480-5214-0235	($44,000)
Pre-Treatment Compliance Branch	6210-480-5217-0235	($44,000)
		($132,000)
On-Call Engineering	6210-480-5277-0235	$132,000

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-330

RESOLUTION APPROVING A ONE-TIME FLAT RATE PARKING FEE OF $10 FOR THE 9TH AND 10TH STREET PARKING GARAGES FOR X-FEST, ON AUGUST 7, 2010

WHEREAS, X-Fest brings approximately 20,000 patrons to downtown Modesto for a one-day event, and

WHEREAS, participants begin to use the parking garages as early as 1:00 p.m. on the day of the event, and

WHEREAS, for the past two years staff has overseen the parking during this event, and

WHEREAS, staff has found it necessary to close early due to safety concerns, resulting in loss of revenue, and

WHEREAS, it is typical of an event of this nature to prepay for parking, and

WHEREAS, the Police Department has recommended that parking staff not remain on the premises as the event winds down, and

WHEREAS, staff has met with X-Fest organizer, Chris Ricci, who supports the $10 prepaid parking plan, and

WHEREAS, parking staff would be available starting at 1:00 p.m. to collect the $10 parking fee as the patrons enter the garages, and

WHEREAS, once the garages are full, staff will leave and the garages will be open for vehicles to exit,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-time flat rate parking fee of $10 for the 9th and 10th Street Parking Garages for X-Fest, on August 7, 2010.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion be duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-331

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR PRELIMINARY DESIGN REPORT FOR NEW ANAEROBIC DIGESTER PROJECT, IN AN AMOUNT NOT TO EXCEED $526,777 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $52,678 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $579,455; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement include survey and site mapping of the existing digester facilities, geotechnical investigation, digester process systems plan, preparation of the site and structures preliminary design plans, specifications and construction cost estimate, and

WHEREAS, the purpose of this project is to prepare a Preliminary Design Report (PDR) for the construction of a new Anaerobic Digester and new Digester Control Building, and

WHEREAS, the existing Digester #1 shows signs of corrosion and the support facilities, such as the heating and mixing systems are outdated and inadequate, and

WHEREAS, on August 6, 2008, by Resolution No. 2008-446, Council approved an agreement with Carollo Engineers, P.C. (Carollo) to prepare an evaluation report of Digester #1 detailing the existing conditions and proposed measures of repair and rehabilitation, and

WHEREAS, the evaluation report provided the following information: 1) Digester #1 will require the upgrade of several mechanical components such as the mixing and heating systems, as well as the upgrade of the electrical system; 2) Digester #1 will also require seismic and structural repairs and interior and exterior coatings to bring the digester to an upgraded level of performance and reliability; 3) Digester #2 will need

similar upgrades, yet not as intensive as Digester #1, in order to operate as a permanent duty digester; 4) Existing control building will need to be relocated out of the flood plain, yet within the Sutter Avenue Facility site constraints, and

WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to be presented at Council at the Preliminary Design Report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, Request for Qualifications (RFQs) were sent to over one hundred consultants, and

WHEREAS, City staff received nine (9) Statements of Qualifications (SOQs) from firms with experience in anaerobic digester design, and

WHEREAS, each partnered with local engineering and geotechnical firms to provide the site civil improvements, survey and geotechnical aspects of the project design, and

WHEREAS, Stantec was the only local firm to submit an RFQ, and

WHEREAS, in October 2009, after a review of all nine firm's qualifications, staff issued Request for Proposals (RFPs) to the three most qualified consultants; Brown and Caldwell, HDR Engineering Inc., and West Yost Associates, and

WHEREAS, the proposals were reviewed by a Selection Committee comprised of Public Works Engineering Design and Wastewater Operations staff, and

WHEREAS, following the consultant interviews, the Selection Committee determined that Brown and Caldwell is the most qualified consultant to prepare this PDR, and

WHEREAS, Brown and Caldwell is teamed with local firms of Mid-Valley Engineers and Kleinfelder, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with Brown and Caldwell as the City does not have the staffing level or subject matter expertise to complete the PDR for the new Anaerobic Digester and new Control Building project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Preliminary Design Report for New Anaerobic Digester with Brown and Caldwell for an amount not to exceed $526,777 for the identified scope of services, plus $52,678 for additional services (if needed), for a maximum total amount of $579,455.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-332

RESOLUTION APPROVING AN AGREEMENT WITH NOR-CAL PIPELINE SERVICES FOR CCTV INSPECTION SERVICES FOR THE CANNERY SEGREGATION LINE FOR AN AMOUNT NOT TO EXCEED $38,809.50 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $3,881.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $42,690.50, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing a Closed Circuit Television (CCTV) inspection for the Cannery Segregation Trunk Line and summarizing the condition of the main line in an inspection report, and

WHEREAS, the intent is to perform a CCTV inspection on the Cannery Segregation Line from the Sutter Avenue Plant to the Beard Brook Park crossing during the non-canning season to determine the condition of the existing trunk, and

WHEREAS, the CCTV inspection will provide locations and conditions of the areas in the trunk line that are in need of cleaning or repair, and

WHEREAS, due to the size of these trunk lines and the type of equipment necessary to perform a CCTV inspection, the City Wastewater Collections staff is unable to perform a CCTV inspection on this trunk line, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants for Capital Projects, Request for Qualifications (RFQs) were sent to sixteen consultants, and

WHEREAS, City staff received six (6) Statements of Qualifications (SOQs) from firms with experience in CCTV inspection services, and

WHEREAS, in August 2009, the six firms were interviewed by a Selection Committee comprised of Public Works Engineering Design and Wastewater Collections staff, and

WHEREAS, following the consultant interviews, the Selection Committee selected the top three ranked firms to be placed on an on-call list for CCTV inspection services, and

WHEREAS, in October 2009, staff issued Request for Proposals (RFPs) to the three on-call consultants, and

WHEREAS, the proposals were reviewed by a Selection Committee comprised of Public Works Engineering Design and Wastewater Collections staff, and

WHEREAS, following the review, the Selection Committee determined that Nor-Cal Pipeline Services is the most qualified consultant to perform this CCTV inspection, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with Nor-Cal Pipeline Services as the City does not have the staffing level or subject matter expertise to complete the CCTV inspection services for the Cannery Segregation Trunk Line project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for CCTV inspection services for the Cannery Segregation Trunk Line with Nor-Cal Pipeline Services for an amount not to exceed

$38,809.50 for the identified scope of services, plus $3,881.00 for additional services (if needed), for a maximum total amount of $42,690.50.

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 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-333

A RESOLUTION ACCEPTING THE WORK BY HUFF CONSTRUCTION COMPANY, INC. FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $705,823.51

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the City of Modesto Water Quality Control Lab Remodel Project has been completed by Huff Construction Company, Inc. in accordance with the contract agreement dated April 7, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "City of Modesto Water Quality Control Lab Remodel Project" is hereby accepted as complete from said contractor Huff Construction Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $705,823.51 is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-334

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE ELLISON DRIVE SANITARY PIPELINE REPLACEMENT PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $575,694.87

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Ellison Drive Sanitary Pipeline Replacement Project has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated August 5, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Ellison Drive Sanitary Pipeline Replacement Project" is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $595,694.87 is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-335

A RESOLUTION ACCEPTING THE WORK BY MOZINGO CONSTRUCTION, INC. FOR THE "DOWNSTREAM WATER SYSTEM IMPROVEMENTS – PRIORITY 1 & 2 TURNOUTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,816,078.99

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the "Downstream Water System Improvements Tier 1 – Priority 1 & 2 Turnouts" project has been completed by Mozingo Construction, Inc. in accordance with the contract agreement dated May 13, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Downstream Water System Improvements Tier 1 – Priority 1 & 2 Turnouts" is hereby accepted as complete from said contractor Mozingo Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $2,816,078.99 is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-336

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ARRA OVERLAY AND ADA CURB RAMP IMPROVEMENT PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION IN THE AMOUNT OF $2,609,276.96 FOR THE ARRA OVERLAY AND ADA CURB RAMP IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the ARRA Overlay and ADA Curb Ramp Improvement Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the ARRA Overlay and ADA Curb Ramp Improvement Project were opened at 11:00 a.m. on May 25, 2010, and later tabulated by the Director of Community and Economic Development for the consideration of the Council, and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of $2,609,276.96 received from DSS Company dba Knife River Construction be accepted as the lowest responsible bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the ARRA Overlay and ADA Curb Ramp Improvement Project, accepts the bid of DSS Company dba Knife River Construction in the amount of $2,609,276.96, and awards DSS Company dba Knife River Construction the contract for the ARRA Overlay and ADA Curb Ramp Improvement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Lopez

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-337

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT FOR THE ARRA OVERLAY AND ADA CURB RAMP IMPROVEMENT PROJECT, INCLUDING CONTINGENCY, AND CONSTRUCTION ADMINISTRATION

WHEREAS, certain budgetary transactions are necessary in the amount of $402,227, in order to fully fund the construction contract, including contingency and construction administration for the ARRA Overlay and ADA Curb Ramp Improvement Project, and

WHEREAS, the Fiscal Year 2010-2011 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Lopez

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT A

Contact Person: Gail Clement
Telephone No.: 15538
Department: Utility Planning & Projects

Council Action Date: 8/4/10
Resolution Number:

FY: 10-11

Fund Title: ARRA-PW Streets
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
MY-0530-430-H014-3650-53	H014	$ 3,269,225	$402,227	$3,671,452	ARRA Reimbursable Grant-PW Streets
APPROPRIATIONS					
FROM					
TO					**ARRA Street Overlay & ADA Curb Ramp**
MY-0530-430-H014-6040	H014	$ 2,407,687	$201,590	$2,609,277	Construction
MY-0530-430-H014-6050	H014	$ 240,769	$59,231	$300,000	Contingency
MY-0530-430-H014-6060	H014	$ 240,769	$141,406	$382,175	Constr Admin

COMMENTS/JUSTIFICATION

This adjustment is to amend the budget by increasing American Recovery and Reinvestment Act (ARRA) revenues in the amount of $402,227, and appropriating funds to Objects 6040-Construction, 6050-Contingency & 6060-Construction Administration in CIP Account H014-ARRA Street Overlay & ADA Curb Ramp Improvements to provide additional funding for construction activities for the project. A copy of the ARRA Amendment Modification Summary is attached.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ASO (C&ED)	Laurie A. Smith	7/8/10
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT		7-9-10
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NO. _____
BY: _____ DATE: _____

AMENDMENT MODIFICATION SUMMARY

FEDERAL AID PROGRAM | **CALIFORNIA DEPARTMENT OF TRANSPORTATION**

DLA LOCATOR: 10-STA-0-MOD .
PREFIX: ESPL
PROJECT NO: 5059(166)
SEQ NO: 3
EA: 10956915L
AGENCY: MODESTO
ROUTE:
TIP DATA
MPO: STANCOG
FSTIP YR: 08/09
STIP REF: CTIPS# 214-0000-0484
DISASTER NO:
BRIDGE NO'S:

PROJECT LOCATION:
VARIOUS STREETS WITHIN CITY OF MODESTO *** .
TYPE OF WORK:
OVERLAY AND ADA CURB RAMP IMPR
FED RR NO'S:
PUC CODES:
PROJ OVERSIGHT: EXEMPT FROM FHWA REVIEW
ENV STATUS / DT: CAT EXCL-ST DOC 10/27/2009
RW STATUS / DT: 0 11/30/2009
INV RTE:
BIG MP: 0
END MP: 0

PREV AUTH / AGREE DATES:
PE: 09/23/2009
R/W:
CON: 12/14/2009
SPR:
MCS:
OTH:

PROG CODE	LINE NO	IMPV TYPE	FUNC SYS	URBAN AREA	URB/RURAL	DEMO ID
C230	10	15	P	MODESTO	URBAN	
C230	30	06	P	MODESTO	URBAN	
C230	31	17	P	MODESTO	URBAN	
C240	30	06	P	MODESTO	URBAN	
C240	31	17	P	MODESTO	URBAN	

FUNDING SUMMARY

PHASE		PROJECT COST	FEDERAL COST	AC COST
PE	PREV. OBLIGATION	$380,000.00	$380,000.00	$0.00
	THIS REQUEST	$0.00	$0.00	$0.00
	SUBTOTAL	$380,000.00	$380,000.00	$0.00
R/W	PREV. OBLIGATION	$0.00	$0.00	$0.00
	THIS REQUEST	$0.00	$0.00	$0.00
	SUBTOTAL	$0.00	$0.00	$0.00
CON	PREV. OBLIGATION	$2,889,225.00	$2,889,225.00	$0.00
	THIS REQUEST	$402,227.00	$402,227.00	$0.00
	SUBTOTAL	$3,291,452.00	$3,291,452.00	$0.00
	TOTAL:	$3,671,452.00	$3,671,452.00	$0.00

STATE REMARKS

HISTORICAL COMMENTS

09/17/09: Sequence No. 1 .
The City of Modesto is the responsible agency. This E-76 is Request for .
Authorization (RFA) to proceed with the Preliminary Engineering phase of this
project. The Project Locations are: .

Street	From	To
10th St	H St	I St
11th St	I St	K St
12th St	G St	H St
Alice St	Olive Ave	Magnolia Ave
Beyer Park Dr	Sylvan Meadows Dr	Forest Glenn Dr
---	---	---
---	---	---
Street	From	To
---	---	---
---	---	---

Tully Rd	9th St	Pelandale Ave
Tuolumne Rd	Paradise Rd	9th St
Virginia Ave	Needham St	Roseburg Ave
W. Roseburg Ave	Carver Rd	McHenry Ave
Wright St	Olive Ave	Magnolia Ave

Authorized C230 federal funds of $380,000 for Preliminary Engineering. No work on PS&E shall begin prior to the approval of the Environmental Document.

NOTE: This ARRA Project received 1511 Certification on September 14, 2009.
Certifying Agency: Stanislaus Council of Governments (StanCOG)
Page No. 1 of 1
Line No. 1 and 2

StanCOG has confirmed via an email (will be submitted to FHWA as part of the supporting documents) that the City of Modesto is combining the two projects in Lines 1 and 2 of the 1511 Certified Project List into a single project through this RFA.

RV

Sequence #2: 12/02/09
This E-76 is Request for Authorization (RFA) to proceed with Construction phase of the project.

NG

12/04/09: Sequence No. 2
Following completion of the PE phase under the same Federal Project Number, the Agency is now requesting for authorization to proceed with the Construction phase of the project.

Authorized C240 federal funds of $2,889,225 for Construction by Contract and Construction Engineering.

NOTE: This ARRA Project received 1511 Certification on September 14, 2009.
Certifying Agency: Stanislaus Council of Governments (StanCOG)
Page No. 1 of 1
Line No. 1 and 2

StanCOG has confirmed via an email (will be submitted to FHWA as part of the supporting documents) that the City of Modesto is combining the two projects in Lines 1 and 2 of the 1511 Certified Project List into a single project through this RFA.

RV

06/07/2010 SEQ 3 is to obligate an additional $402,227 from ARRA funds for Construction and Construction Engineering as a result of bid opening. STANCOG concurs with the project funding increase.

FEDERAL REMARKS

AUTHORIZATION

AUTHORIZATION TO PROCEED WITH REQUEST: OTH
FOR: CONS. COST ADJUST.
DOCUMENT TYPE: AMOD

PREPARED BY: YOUSEF, YOUSEF ON 06/02/2010 948-7959
REVIEWED BY: SAMANI, SAAD ON 06/17/2010 653-8176
AUTHORIZED BY: MLCOCH, SHANNON ON 06/24/2010 FOR CALTRANS
PROCESSED BY: HUEY, SHUN ON 06/25/2010 FOR FHWA
LAST FHWA ELECTRONIC SIGNATURE EXECUTED BY: DUSTIN BAILEY ON 07/06/2010

SIGNATURE HISTORY FOR PROJECT NUMBER 5059(166) AS OF 07/07/2010

FHWA FMIS 4.0 SIGNATURE HISTORY

MOD #	SIGNED BY	SIGNED ON
2	SHUN HUEY	07/06/2010
	JACOB R. WACLAW	07/06/2010
	DUSTIN BAILEY	07/06/2010
1	JERILYNN FOGLE	12/09/2009
	SHEILA MASTERS	12/11/2009
	DUSTIN BAILEY	12/14/2009
0	JERILYNN FOGLE	09/22/2009
	DAVID A. TEDRICK	09/22/2009
	DUSTIN BAILEY	09/23/2009

FHWA FMIS 3.0 SIGNATURE HISTORY

CALTRANS SIGNATURE HISTORY

DOCUMENT TYPE	SIGNED BY	SIGNED ON
AMEND/MOD	MLCOCH, SHANNON	06/24/2010

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-338

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, on June 9, 2010, the City Council, by Resolution No. 2010-237, 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 areas adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the proposed annual assessment for Fiscal Year 2010-11 is $26.00 per residential parcel, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the City Engineer, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of $26.00 annual assessment per residential parcel within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for Fiscal Year 2010-11, 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 2010-11 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 special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-339

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, on June 9, 2010, the City Council, by Resolution No. 2010-236, 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 2010-11 is $130.66 per acre for commercial property and $25.76 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, in July 2000, the City successfully completed a Proposition 218 Ballot Vote, in accordance with Section 4 of Article XIIID of the California Constitution and with Section 53753 of the California Government Code, which added a cost of living increase based on the Building Cost Index (BCI). This year's assessment was adjusted by the approved "inflator", BCI for the San Francisco Bay Area, as reported in the Engineer News Record in the second week of March of this year. The BCI from the March 2, 2010 issue of the Engineer News Record was 4,810.91, which is a 0.9% increase over the prior year, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of $130.66 per acre for commercial property and $25.76 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 2010-11 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 2010-11 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 special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-340

A RESOLUTION FINDING THAT THE ANNEXATION OF THE PARKLAWN NEIGHBORHOOD TO SEWER DISTRICT #1 AND EXTENSION OF SEWER SERVICE TO THE AREA IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE 2008 MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City's Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2010-17 ("Initial Study") reviewed the proposed Annexation of the Parklawn Neighborhood to Sewer District #1 and Extension of Sewer Service to the Area ("Project") to determine whether the Project is within the scope of the project covered by the Master EIR, and concluded that the proposed Project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed Project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA Guidelines beginning on July 24, 2010, the City caused to be published a 10-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 4, 2010, 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 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. That the proposed Project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the Project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed Project that require Project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this Project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the Project shall be incorporated in the Project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and 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 special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-17

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010-17

For the proposed:

Parklawn Neighborhood "Measure M" Ballot Measure (ANX-10-002)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

July 15, 2010

Updated: December 2009

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City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Parklawn Neighborhood "Measure M" ballot measure is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

This environmental review utilizes the 2008 Urban Area General Plan Master EIR (SCH #2007072023), certified in October 2008, and the Wastewater Plan Master EIR (SCH #2006052076), certified in March 2007.

II. PROJECT DESCRIPTION

A. Title: Parklawn Neighborhood "Measure M" Ballot Measure (ANX-10-002)

B. Address or Location: South of the centerline of Hatch Road, east of Union Pacific Railroad right of way, north of the City of Modesto, and west of the Union Pacific Railroad right of way (see Figure A).

C. Applicant: City of Modesto, 1010 10th Street, Modesto, CA 95354

D. City Contact Person: Cindy van Empel

Project Manager:	Cindy van Empel
Department:	Community and Economic Development
Phone Number:	209.577.5267
E-mail address:	cvanempel@modestogov.com

E. Current General Plan Designation(s): R, Residential (2008 Urban Area General Plan)

F. Current Zoning Classification(s): The entire site lies outside the City of Modesto in unincorporated Stanislaus County and all zoning is in accordance with the Stanislaus County Zoning Code.

All of the property fronting on Hatch Road and Morgan Road is zoned C-2, with the exceptions of the area between Hatch Road and Morgan Road that forms the bridge footing, which is zoned M and the 12 southernmost lots along Morgan Road, which are zoned R-1; the six parcels at the intersection of Midway and Parklawn Avenues (four lie on the east side of Midway Avenue) are zoned C-1; and the remainder of the site is zoned R-1.

G. Surrounding Land Uses:

North: residences in unincorporated County and State Route 99
South: industrial land in Modesto
East: Union Pacific Railroad and State Route 99
West: residences in unincorporated County and industrial land in Modesto

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 ballot measure would allow the extension of sewer service (annexation to Sewer District 1) to 86.1 acres of developed land for 329 parcels in the City of Modesto's Sphere of Influence. These parcels are estimated to be comprised of 17 commercial lots, one church, and 312 residential lots with about 340 residences. Annexation to the City of Modesto is not contemplated at this time. The proposed ballot measure would ask Modesto citizens if they want to extend sewer service to this area and is advisory only.

I. Other Public Agencies Whose Approval is Required:

- Stanislaus County must approve a public improvement agreement with the City of Modesto which will establish financial responsibilities.
- Stanislaus County Local Agency Formation Commission must approve an Out of Boundary Service Application in order for Modesto to provide sewer service without annexation.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. _X_ Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ____ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	_____	_____
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	X	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	X	☐

Discussion:

(1) Modesto would be the lead agency for subsequent discretionary actions.

(2) No significant impacts other than those related to construction are anticipated to result from extension of sewer service (annexation to Sewer District #1) to the Parklawn Neighborhood.

(3) No change to federal, state, or local regulations are expected to occur.

(4) The Parklawn Neighborhood is a developed area, therefore, no additional impacts on natural resources is expected to occur.

(5) The Parklawn Neighborhood (Area 24 in the 2009 Urban Growth Review) lies wholly within the City of Modesto's Sphere of Influence.

(6) All relevant mitigation measures will be applied to the extension of sewer service (annexation to Sewer District #1) to the Parklawn Neighborhood.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	X	☐

Discussion:

(1) The 2008 Urban Area General Plan Master EIR was certified in October 2008. The Wastewater Plan Master EIR was certified in March 2007. Both documents are less than five years old.

(2)

(a) Due in large part to the recession, there has been little change to the environmental circumstances under which the 2008 Urban Area General Plan and 2007 Wastewater Plan Master EIRs were certified.

(b) No new information has become available that affects the accuracy of either Master EIR upon which this analysis relies.

(c) Policies developed in the 2008 Urban Area General Plan and 2007 Wastewater Plan Master EIRs remain in effect and will be applied to this project, as needed.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by Master EIR mitigation measures.	☐	☐	☐	X
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	X
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☐	☐	☐	X
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☐	☐	☐	X
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☐	☐	☐	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	☐	☐	☐	X

Discussion:

(1-7) The proposed ballot measure could result in the extension of sewer service (annexation to Sewer District #1) outside the City of Modesto. Additional development could occur as a result, but this would be consistent with the development regulations already in place. Short-term traffic impacts could result during construction activities.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☐	☐	☐	**X**
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☐	☐	☐	**X**
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☐	☐	☐	**X**
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☐	☐	☐	**X**
5) The proposed project would create objectionable odors affecting a substantial number of people.	☐	☐	☐	**X**

Discussion:

(1-5) The proposed ballot measure could result in the extension of sewer service (annexation to Sewer District #1) outside the City of Modesto. Additional development could occur as a result, but this would be consistent with the development regulations already in place. Short-term air quality impacts could result during construction activities.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects is based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☐	☐	**X**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☐	☐	☐	X
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	☐	☐	☐	X

Discussion:

(1-4) The proposed ballot measure could result in the extension of sewer service (annexation to Sewer District #1) outside the City of Modesto. Additional development could occur as a result, but this would be consistent with the development regulations already in place. Short-term noise impacts could result during construction activities, but these have been anticipated in the 2008 Urban Area General Plan Master EIR.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☐	☐	☐	**X**
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☐	☐	☐	**X**
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☐	☐	☐	**X**
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☐	☐	☐	**X**

Discussion:

(1-4) The proposed ballot measure could result in the extension of sewer service (annexation to Sewer District #1) outside the City of Modesto. The Parklawn Neighborhood lies in a developed area and is completely surrounded by existing development. No impacts on agricultural land would result from this action.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	X
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☐	☐	☐	X
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☐	☐	☐	X

Discussion:

(1-3) No significant increase in the use of potable water would be expected to occur as a result of the extension of sewer service. Some increase is expected to occur, because it is likely that residents of the Parklawn Neighborhood have curtailed their use of water to reduce the amount of sewage being processed by their septic systems.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with sewer policies in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☐	☐	☐	**X**
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☐	☐	**X**

Discussion:

(1-3) The 2008 Urban Area General Plan Master EIR and the 2007 Wastewater Plan Master EIR contemplated extension of sewer service to all areas within the City's Sphere of Influence, including the Parklawn Neighborhood. No impacts greater than those disclosed in those environmental documents would be anticipated.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☐	☐	☐	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 a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☐	☐	☐	X
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☐	☐	☐	X
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☐	☐	☐	X
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	X
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☐	☐	☐	X

Discussion:

(1-6) The Parklawn Neighborhood lies well outside areas in which significant biological resources would be expected (Dry Creek, Tuolumne River). There are no local policies or ordinances that protect biological resources and no conservation plans that affect the area.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures would be applied to the project except in the very unlikely event that archaeological resources are discovered during construction. Should that occur, construction activity will cease and an archaeologist will be consulted. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	☐	☐	☐	X
3) The proposed project would modify or demolish a structure more than 50 years in age.	☐	☐	☐	X
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	☐	☐	☐	X
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	X

Discussion:

(1-5) The Parklawn Neighborhood lies well outside areas in which significant archaeological resources would be expected to occur (near Dry Creek, Tuolumne River). Should sewer infrastructure be extended to this area, soil disturbance would occur during construction activities, during which archaeological resources could be discovered. If this were to occur, construction activity would stop and an archaeologist would be consulted. No historic resources are expected to be disturbed.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity

of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☐	☐	☐	**X**
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☐	☐	☐	**X**

Discussion:

(1-3) The potential extension of sewer service to the Parklawn Neighborhood may slightly decrease storm water runoff from the area. Many existing privately-owned septic systems are failing and much of the unpaved land in the Parklawn Neighborhood is saturated year-round, reducing or eliminating the ability of the soil to infiltrate rain. Extending sewer service will eventually result in the drying of existing leach fields, which will then be better able to infiltrate rain. No development is expected to occur beyond that which is allowed under current County zoning regulations.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☐	☐	X
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☐	☐	☐	X
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☐	☐	☐	X
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	☐	☐	X
6) The proposed project would violate water quality standards or waste discharge requirements.	☐	☐	☐	X
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☐	☐	☐	X
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☐	☐	☐	X

Discussion:

(1-8) The Parklawn Neighborhood lies outside both the 100- and 200-year floodplains, therefore, no significant flooding is expected to occur. Annexing the Parklawn Neighborhood to Sewer District #1 and providing service will likely result in incremental improvements in groundwater quality. Currently, the area has a higher concentration of privately-owned septic systems than would be allowed under existing State regulations, resulting in some groundwater contamination. Should sewer service be extended to the area, it is expected that failing privately-operated septic systems will be abandoned and groundwater quality in the area will gradually improve. No new development is expected to occur beyond that which is currently allowed under existing County zoning regulations. Finally, because the area lies outside the City of Modesto and the City does not intend to annex the area to the City, the area is not subject to the City's stormwater quality control measures.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would eliminate parks or open space.	☐	☐	☐	X
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☐	☐	☐	X

Discussion:

(1-3) The Parklawn Neighborhood lies outside the City of Modesto and the City does not contemplate annexing the area to the City, only to Sewer District #1, therefore, the area is not subject to the City's parks and open space policies.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☐	☐	☐	**X**

Discussion:

(1-2) Any new development that may occur in accordance with the County's zoning regulations will be subject to schools fees in effect at that time. Collecting those fees will be the responsibility of the County, not the City, as the area is not being contemplated for annexation to the City, only to Sewer District #1.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	**X**

Discussion:

(1-2) The possible annexation of the Parklawn Neighborhood to Sewer District #1 and extension of sewer service to the area would not create a demand for police protection services.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	X
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	☐	☐	☐	X

Discussion:

(1-3) Should additional development occur as a result of the extension of sewer service to the area, a small increase in the demand for fire protection would occur. However, any new development is expected to be consistent with the existing County regulations.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	☐	☐	☐	**X**
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☐	☐	☐	**X**

Discussion:

(1-2) Annexing the area to Sewer District #1 and extending sewer service would not directly increase solid waste generation. However, extension of sewer service could indirectly result in increased solid waste generation by allowing new development to occur consistent with existing County zoning. No significant impact or cumulative impact is expected.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☐	☐	**X**
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☐	☐	**X**
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☐	☐	**X**

Discussion:

(1-4) Potential annexation of the Parklawn Neighborhood to Sewer District #1 and extension of sewer service to the area would not create hazardous materials beyond that which would normally be expected to occur with construction activity. This impact would be temporary and not significant.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.
Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	☐	☐	☐	**X**

Discussion:

(1-2) No new impacts relating to geologic hazards or mineral resources would be anticipated to result from the extension of sewer service beyond that which has been anticipated by the 2008 Urban Area General Plan Master EIR and Wastewater Plan Master EIR. Furthermore, the soils underlying the Parklawn Neighborhood are incapable of adequately supporting the use of septic tanks at the density at which they are in use. Extending sewer service to the area would result in failing septic tanks to be abandoned and could improve the function of the remaining septic systems.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☐	☐	☐	**X**

Discussion:

(1-2) No energy impacts greater than those anticipated in the 2008 Urban Area General Plan Master EIR or Wastewater Plan Master EIR would be expected to result from construction of sewer lines to the Parklawn Neighborhood or system operations.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	**X**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	X

Discussion:

(1-3) Construction activities create an unsightly, but temporary impact. A lift station would be installed as part of the extension of sewer service at a location that has not yet been determined. The visual impact of a lift station would not be significant and would be needed for operation of sewer service in this area. No other effects on visual resources would be expected.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☐	☐	X
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☐	☐	X
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☐	☐	☐	X
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☐	☐	X

Discussion:

(1-4) If the Parklawn Neighborhood is annexed to Sewer District #1 and sewer service is extended to the area, a small amount of new development could be accommodated under the existing County zoning regulations. This level of development is allowed, but is constrained by septic systems that are beyond their capacity and the lack of available sewer service. No other land use impacts beyond those identified in the Master EIR would be expected to occur.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures would be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☐	☐	**X**
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☐	☐	**X**
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☐	☐	**X**

Discussion:

(1-3) Extension of sewer service to the Parklawn Neighborhood would allow a small amount of infill development under the existing County zoning regulations, which would help keep the metropolitan area compact, although the amount of development would not be significant. There is no Sustainable Communities Strategy in place at this time. As such, no impact is expected to occur as a result of the extension of sewer service.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:
None

Degradation of Air Quality:
None

Generation of Noise:
None

Effects on Agricultural Lands:
None

Increased Demand for Long-Term Water Supplies:
None

Increased Demand for Sanitary Sewer Services:
None

Loss of Sensitive Wildlife and Plant Habitat:
None

Disturbance of Archaeological/Historic Sites:
None

Increased Demand for Storm Drainage:
None

Flooding and Water Quality:
None

Increased Demand for Parks and Open Space:
None

Increased Demand for Schools:
None

Increased Demand for Police Services:
None

Increased Demand for Fire Services:
None

Generation of Solid Waste:
None

Generation of Hazardous Materials:
None

Geology, Soils, and Mineral Resources:
None

Energy:
None

Effects on Visual Resources:
None

Land Use and Planning:
None

Climate Change:
None

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-341

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "PARKLAWN NEIGHBORHOOD" WHICH IS DESCRIBED AS THE AREA BOUNDED BY HATCH ROAD ON THE NORTH, PEARSON AVENUE/UNION PACIFIC RAILROAD ON THE WEST, NELSON WAY AND A LINE EXTENDING FROM THE CENTERLINE OF NELSON WAY WESTERLY TO THE UNION PACIFIC RAILROAD ON THE SOUTH, AND MORGAN ROAD/UNION PACIFIC RAILROAD ON THE EAST

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 2, 2010 an Advisory measure relating to the provision of sewer service to a certain unincorporated area of the County, within the City's Sphere of Influence,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, upon request of the Parklawn Neighborhood Residents, submit to the qualified electors of the City of Modesto at a regular election to be held on November 2, 2010, an Advisory vote relating to the provision of sewer service to a certain unincorporated area known as the "Parklawn Neighborhood" as set forth below, and hereby designates the form of the ballot measure for use at said election as follows:

Shall the City Council provide sewer service to the following described area:

"Parklawn Neighborhood"

The unincorporated area designated "Parklawn Neighborhood" which is described generally as the area bounded by Hatch Road on the north, Pearson Avenue/Union Pacific Railroad on the west, Nelson Way and a line extending from the centerline of Nelson Way westerly to the Union Pacific Railroad on the south, and Morgan road/Union Pacific Railroad on the east.

SECTION 2. FORM OF BALLOT.

On the ballot to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the advisory question to extend sanitary sewer service:

ADVISORY VOTE ONLY

MEASURE ___

Shall the City Council provide sewer service to the following unincorporated county area described below?	Yes	☐
	No	☐

The unincorporated area known as the "Parklawn Neighborhood" which is described generally as the area bounded by Hatch Road on north, Pearson Avenue/Union Pacific Railroad on west, Nelson Way extended from the centerline of Nelson Way westerly to Union Pacific Railroad on south, and Morgan Road/Union Pacific Railroad on east.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-342

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN UNINCORPORATED AREA, COMMONLY REFERRED TO AS THE "PARKLAWN NEIGHBORHOOD", GENERALLY BORDERED ON THE EAST AND WEST BY THE UNION PACIFIC RAILROAD, ON THE SOUTH BY THE CITY OF MODESTO, AND ON THE NORTH BY CENTERLINE OF HATCH ROAD, TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular general election to be held on November 2, 2010, an advisory measure concerning the unincorporated area designated as the "Parklawn Neighborhood" or "Area 24" in the Modesto 2009 Urban Growth Review to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-343

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE PARKLAWN NEIGHBORHOOD AREA

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 2, 2010, an advisory measure concerning the unincorporated area referred to as the "Parklawn Neighborhood Area", which is generally described as that area bounded by Hatch Road, Pearson Avenue/Union Pacific Railroad on the west, Nelson extended from the centerline of Nelson Way westerly to Union Pacific Railroad on south, and Morgan Road/Union Pacific Railroad on east, to the City Attorney for the purpose of preparing an impartial analysis of said measure

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

AMENDED on feb. 22, 2011 By Resolution 2011-043

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-344

RESOLUTION APPROVING FILING OF AN APPLICATION WITH THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO AMEND MODESTO'S SPHERE OF INFLUENCE AND ANNEX 4,690 ACRES OF PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON THE SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (OWNER INITIATED – UNINHABITED)

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Jennings Wastewater Treatment Plant (Jennings Plant) was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road, and

WHEREAS, a portion of the Jennings Plant totaling 102.7 acres was annexed into the City on December 30, 1969, and

WHEREAS, the City desires to annex to the City and include in the Modesto Sphere of Influence, the unincorporated area of the Jennings Plant, and

WHEREAS, the City of Modesto has initiated annexation of the remainder of the Jennings Plant, 15 parcels totaling 4,690 acres ("property"), to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, California Government Code Section 56742 allows the annexation of noncontiguous territory which is used by a city for the reclamation, disposal and storage of treated wastewater, and

WHEREAS, Government Code Section 56428 authorizes any person or local agency to file a written request with the Executive Officer of its Local Agency Formation Commission ("LAFCO") to amend a sphere of influence, and

WHEREAS, the request to amend the City of Modesto's sphere of influence and the Resolution of Application are proposed pursuant to California Government Code Sections 56428, 56650, 56654 and 56700, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibits "A" and "B"**, **attached** hereto and by this reference incorporated herein, and

WHEREAS, the proposed Property is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, Government Code Section 56425(a) requires that at least thirty (30) days prior to submitting an application to LAFCO to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere and its boundaries, and to explore methods to reach agreement on the boundaries, development standards and zoning requirements within the sphere, and

WHEREAS, on August 7, 2009, City of Modesto representatives met with County of Stanislaus representatives to discuss the proposed sphere amendment and its boundaries, and reached a verbal agreement that the parties would support City's request for an amendment to the City's sphere of influence and annexation to the City of Modesto, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, and

WHEREAS, the City of Modesto Police Department has indicated they are able to adequately serve the site, and

WHEREAS, it is desired to provide that the proposed annexation be subject to the following terms and conditions:

(a) Said property will continue to be included in the Mountain View and Westport Fire Protection Districts.

(b) Said property will be served by the City of Modesto Police Department.

WHEREAS, the reasons for this proposed sphere of influence amendment and annexation to the City of Modesto are as follows:

(a) The City of Modesto as property owner has initiated the project.

(b) The proposed project is consistent with the Urban Area General Plan.

(c) The proposed project will allow for the future orderly and efficient expansion of the existing Jennings Plant; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit "C", attached** hereto and by this reference incorporated herein, and

WHEREAS, on July 20, 2009, Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California to consider the proposed Resolution of Application for an amendment to the City's sphere of influence and annexation of the Property, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2009-19, recommending to the City Council that they adopt the Resolution of Application for an amendment to add the Property to the City's sphere of influence and annexation of the Property to the City of Modesto, and

WHEREAS, said matter was set for public hearing of the City Council to be held on July 6, 2010, 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 annexation and sphere of influence amendment, and

WHEREAS, an Initial Study Environmental Checklist (Environmental Assessment No. EA/C&ED 2009-19) 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 Wastewater Master Plan Update Master EIR,

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. The foregoing recitals are true and correct.
2. That the proposed sphere of influence amendment and annexation are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Policy III.C.1.e, which calls for the annexation and expansion of the Jennings Plant as appropriate and as needs dictate.
3. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibits "A" and "B," attached** hereto and by this reference incorporated herein.
4. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

5. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

6. The proposed annexation will allow for the orderly and efficient expansion of the existing Jennings Plant; and

7. The proposed sphere of influence amendment and annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076) and has been adequately analyzed by the EIR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application for an amendment to add the Property to the City of Modesto's sphere of influence and for annexation of the Property to the City of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that:

1. The City of Modesto as the owner of land within the affected Property has given written consent to the annexation and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council hereby consents to a waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in **Exhibit "C," attached** hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department

Exhibit "A"

Written Legal Description

Exhibit "B"

Annexation Proposal Map

Exhibit "C"

Plan for Service

JENNINGS ROAD ANNEXATION

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, and 34, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 22, and 23, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, lying in the County of Stanislaus, State of California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly bank of the San Joaquin River with the north line of Section 5, Township 5 South, Range 8 East, said point being 1940.61 feet west of the Northeast corner of said Section 5, measured along the north line of said Section 5, thence the following twenty three (23) courses:

1) South 89°59'19" East 120.00 feet, along the north line of said Section 5, to the southwesterly corner of that certain tract of land commonly identified as Assessor's Parcel 17-61-14; thence
2) North 31°17'15" East 2196.48 feet, along the northwesterly line of the aforementioned tract of land, to the northerly corner thereof; thence
3) South 57°40'55" East 563.69 feet, along the northeasterly line of the aforementioned tract of land, also being along the southwesterly line of Parcel 1, as shown on that certain Parcel Map filed in Book 9 of Parcel Maps, at Page 93, Stanislaus County Records, to the southerly corner of said Parcel 1, also being a point on the northerly line of the Westport Drain; thence
4) North 47°46'05" East 175.78 feet, along the northerly line of said Westport Drain, to an angle point in said northerly line; thence
5) South 81°49'46" East 965.70 feet, continuing along said northerly line; thence
6) North 77°00'15" East 1979.94 feet, continuing along said northerly line; thence
7) South 52°48'45" East 1635.36 feet, continuing along said northerly line; thence
8) North 84°06'15" East 1220.77 feet, continuing along said northerly line; thence
9) South 46°52'45" East 1616.86 feet, continuing along said northerly line; thence
10) South 89°33'45" East 2608.68 feet, continuing along said northerly line; thence

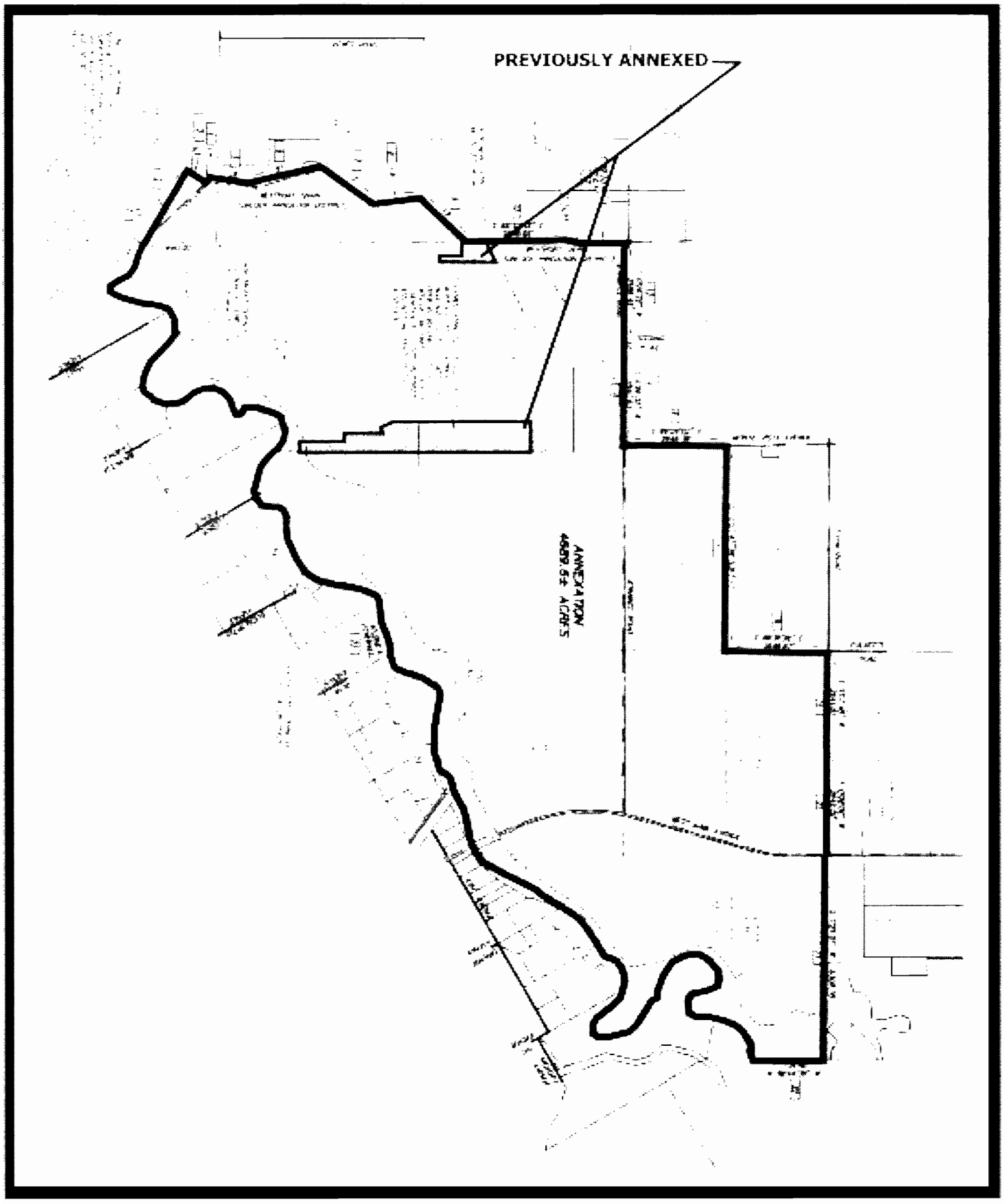
11) South 80°03'55" East 300.00 feet, continuing along said northerly line; thence
12) South 89°33'45" East 1212.42 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, said east right-of-way line being 20.00 feet east, measured at a right angle, of the east line of said Section 2, Township 5 South, Range 8 East; thence
13) South 00°26'32" West 2686.49 feet, along the east right-of-way line of said Jennings Road, being parallel with and 20.00 feet east, measured at a right angle, of the east line of said Section 2, to a point on the south right-of-way line of Zeering Road; thence
14) South 90°00'00" West 20.00 feet, along the south right-of-way line of said Zeering Road, to a point on the east line of said Section 2; thence
15) South 00°26'32" West 2593.63 feet, along the east line of said Section 2, to a point on the north right-of-way line of Monte Vista Avenue, said north right-of-way line being 30.00 feet north, measured at a right angle, of the north line of said Section 11, Township 5 South, Range 8 East; thence
16) South 89°29'02" East 2646.38 feet, along the north right-of-way line of said Monte Vista Avenue, being parallel with and 30.00 feet north, measured at a right angle, of the north line of said Section 11, to a point on the northerly extension of the north-south ¼ section line of said Section 11; thence
17) South 00°27'47" West 5317.77 feet, along said north-south ¼ section line, and northerly extension thereof, to the south ¼ corner of said Section 11; thence
18) South 89°31'26" East 2646.67 feet, along the south line of said Section 11, to the southeast corner of said Section 11; thence
19) South 00°07'48" West 2641.61 feet, along the east line of said Section 14, Township 5 South, Range 8 East, to the east ¼ corner of said Section 14; thence
20) South 00°08'00" West 2642.52 feet, along the east line of said Section 14, to the southeast corner of said Section 14; thence
21) South 00°26'51" West 5309.76 feet, along the east line of said Section 23, Township 5 South, Range 8 East, to the southeast corner of said Section 23; thence
22) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence

23) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 40280 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM all that certain real property annexed to the City of Modesto by the Jennings Addition, filed December 30, 1969, in Volume 2308 of Official Records, at Page 377, Stanislaus County Records.

Containing a total of 4689.6 acres, more or less.

Subject to covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record.



PROPOSED SITE MAP

SECONDARY WASTEWATER TREATMENT PLANT REORGANIZATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Secondary Wastewater Treatment Plant Reorganization.

A. The project site is located east of, and adjacent to, the San Joaquin River. The City of Modesto is proposing to annex 15 City owned parcels totaling approximately 4,690 acres. The City of Modesto's Secondary Wastewater Treatment Facility is located on the subject property. The area proposed to be annexed is not contiguous with the existing City boundaries and would be annexed pursuant to Government Code 56742, which allows for the annexation non-contiguous territory used for wastewater facilities. The annexation does not include the expansion of any onsite facilities. Staff has prepared an Initial Study, Environmental Checklist No. EA/C&ED 2009-19, which concludes that the proposed annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076), and that pursuant to Section 21157.1(b) of CEQA, no new environmental review is required. As part of the approval, community facilities and services were analyzed in detail in Initial Study and Finding of Conformance (C&ED No. 2009-19). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services:

1. Traffic and Circulation: The external roadway network is already constructed. The operation of some of the facilities could increase the number of vehicle trips to and from the facility site. The facilities require periodic review and maintenance, but would not generate significant levels of new trips. Overall, any increases in traffic generated by operation and maintenance of these facilities would be minimal, and would not result in noticeable increases in traffic on adjacent streets, and operational impacts are expected to be less than significant.

2. Waste Water Collection: The area to be annexed is the site of City's Secondary Wastewater Treatment Plant. The build out of the treatment facilities will not generate additional wastewater. The site will be used to expand the wastewater treatment capacity for the Modesto urban area.

3. Water Delivery: The operation of the Secondary Wastewater Treatment Plant would not result in a substantial increase in the demand for water resources, as the collection system would collect and convey wastewater and would not use any water resources. The advanced treatment facilities proposed for the Secondary Plant would provide water that would be suitable for most uses if any water were needed.

4. Storm Water Drainage: The site is currently regulated under the Stanislaus County Storm water Program. Annexing this property to the City of Modesto will cause all activities occurring at this site to be subject to the Modesto Municipal Code Storm water Ordinance Title 5, Chapter 10.

5. Solid Waste Disposal: The Secondary Treatment Plant does not generate solid waste that needs to be removed offsite. The advanced treatment process at the Secondary Plant generates biosolids, which are discharged to facultative ponds onsite. The City's Ranch land included in the proposed annexation is designed to accommodate the disposal of all generated solid waste.

6. Fire Protection: Upon reorganization, the annexation area will continue to be served by the Mountain View and Westport Fire Protection Districts. The Westport Fire Protection District serves the areas north of West Monte Vista Avenue, and the Mountain View Fire Protection District serves the areas south of West Monte Vista Avenue. Almost all of the structures at the Secondary Plant and Ranch are located north of West Monte Vista Avenue. Response time for fire service calls that emanate from the Secondary Plant and Ranch north of West Monte Vista Avenue range from 8 to 10 minutes during the day and 3 to 4 minutes at night. The fire station that responds to service calls to this portion of the Secondary Plant and Ranch in located at 5160 S. Carpenter Road and is part of the Westport Fire Protection District.

   Response times for fire service calls that emanate from the Secondary Plant and Ranch south of W. Monte Vista Avenue range from 8 to 10 minutes during the day and from 3 to 4 minutes at night. The fire station that responds to service calls from this portion of the Secondary Plant and Ranch is located in the town of Crows Landing at the intersection of Crows Landing Road and W. Main Street and is part of the Mountain View Fire Protection District.

   The two fire protection districts serving the area currently receive property tax revenues; however, these revenues will be discontinued upon annexation. The Westport Fire Protection District receives $1,500.00 in property tax revenues each year, while the Mountain View Fire Protection District receives $6,000.00 each year. The City and the Districts have established separate agreements where the Westport District will invoice the City $1,500.00 each year to compensate for the lost revenues and the Mountain View District will invoice the City $6,000.00 each year. In return, the Districts will continue to provide fire and emergency medical services.

7. Police Protection:
   In the event of an in progress emergency call or alarm activation at the subject site, the Stanislaus County Sheriff's Department will be dispatched as a first responder. If an investigation is necessary, the Modesto Police Department will handle the investigation.

B. Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

C. When services be provided?

The above-described services can be provided upon the effective date of annexation.

D. Improvements required as a condition of reorganization

No improvements are required as a condition of reorganization.

E. How will services be financed?

Services will be financed through City fees.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-345

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MT. VIEW FIRE PROTECTION DISTRICT FOR THE PROVISION OF FIRE AND LIFE SAFETY SERVICES FOLLOWING THE ANNEXATION OF THE JENNINGS WASTEWATER TREATMENT PLANT LOCATED AT 7007 JENNINGS ROAD TO THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto has submitted a written request to initiate annexing a portion of the Jennings Road Wastewater Treatment Plant, 15 parcels totaling 4,690 acres, to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Mt. View Fire District and Westport Fire District are responsible for fire suppression and prevention within the City's Jennings Road Wastewater Treatment Plant, and

WHEREAS, the Districts are supported by property tax revenues and will lose these revenues when properties are annexed to the City, and

WHEREAS, City and Mt. View Fire District and Westport Fire District agree it is in the best interests of the City and Districts for the territory to continue to receive fire and life safety services from the Districts, and

WHEREAS, City and Mt. View District and Westport Fire District desire to enter into separate Agreements to compensate the Districts for their continued fire and life safety services following the annexation of the territory within City's Jennings Wastewater Treatment Plant to the City, and

WHEREAS, City and Mt. View Fire District agree it is their intent to insure the District is compensated for their provision of fire and life safety services within the Jennings Wastewater Treatment Plant that is subject to annexation to City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and the Mt. View Fire District for compensation for fire and life safety services following the annexation of the territory within City's Jennings Wastewater Treatment Plant to the City, as set forth in **Exhibit "A" attached** hereto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Agreement Between the City of Modesto and Mt. View Fire District

AGREEMENT
Between the
CITY OF MODESTO
And
MT. VIEW FIRE DISTRICT

THIS AGREEMENT is made and entered into this 14th day of April, 2009 by and between the CITY OF MODESTO (herein "City") and MT. VIEW FIRE DISTRICT (herein "District").

RECITALS

WHEREAS, the City will be annexing land currently used as the City of Modesto Wastewater Treatment Plant located at 7007 Jennings Road which is approximately 4,400 acres; and

WHEREAS, District provides fire protection services for unincorporated properties located within the WWTP; and

WHEREAS, District is supported by property tax revenues and will lose these revenues when properties are annexed to Modesto; and

WHEREAS, the total revenue for the District is $6,000 per year.

NOW, THEREFORE, the parties agree as follows:

1. After the annexation is complete, District will invoice the City annually in January the amount of $6,000 to compensate for the loss of property tax revenue.

2. District will provide Standard Fire Protection Services including fire and EMS at the City of Modesto's Wastewater Treatment Plant Facility.

3. City and District will meet every three years at the request of either the City or the District to review terms of this agreement and make amendments as needed.

4. Any additional District needs requested or required by the City of Modesto, Police Fire Range, will be not be covered under this agreement.

5. City or District may cancel this agreement 90 days notice to the other party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duty authorized on the date first hereinabove written.

CITY OF MODESTO

By: _____
Greg Nyhoff, City Manager

Date: _____

MT. VIEW FIRE DISTRICT

BY: Kevin Blount
Kevin Blount, Fire Chief

Print Name: Kevin Blount

Date: 4-14-09

APPROVED AS TO FORM AND LEGALITY:

By: _____
Roland Stevens, Asst City Attorney

ATTEST:

By: _____
Stephanie Lopez, City Clerk

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-346

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE WESTPORT FIRE PROTECTION DISTRICT FOR THE PROVISION OF FIRE AND LIFE SAFETY SERVICES FOLLOWING THE ANNEXATION OF THE JENNINGS WASTEWATER TREATMENT PLANT LOCATED AT 7007 JENNINGS ROAD TO THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto has submitted a written request to initiate annexing a portion of the Jennings Road Wastewater Treatment Plant, 15 parcels totaling 4,690 acres, to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Westport Fire District and Mt. View Fire District are responsible for fire suppression and prevention within the City's Jennings Road Wastewater Treatment Plant, and

WHEREAS, the Districts are supported by property tax revenues and will lose these revenues when properties are annexed to the City, and

WHEREAS, City and Westport Fire District and Mt. View Fire District agree it is in the best interests of the City and Districts for the territory to continue to receive fire and life safety services from the Districts, and

WHEREAS, City and Westport Fire District and Mt. View District desire to enter into separate Agreements to compensate the Districts for their continued fire and life safety services following the annexation of the territory within City's Jennings Wastewater Treatment Plant to the City, and

WHEREAS, City and Westport Fire District agree it is their intent to insure the District is compensated for their provision of fire and life safety services within the Jennings Wastewater Treatment Plant that is subject to annexation to City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and the Westport Fire District for compensation for fire and life safety services following the annexation of the territory within City's Jennings Wastewater Treatment Plant to the City.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute the Agreement, as set forth in **Exhibit "A" attached** hereto.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Agreement Between the City of Modesto and Westport Fire District

AGREEMENT
Between the
CITY OF MODESTO
And
WESTPORT FIRE DISTRICT

THIS AGREEMENT is made and entered into this _____ day of _____, 2009 by and between the CITY OF MODESTO (herein "City") and WESTPORT FIRE DISTRICT (herein "District").

RECITALS

WHEREAS, the City will be annexing land currently used as the City of Modesto Wastewater Treatment Plant located at 7007 Jennings Road which is approximately 4,400 acres; and

WHEREAS, District provides fire protection services for unincorporated properties located within the WWTP; and

WHEREAS, District is supported by property tax revenues and will lose these revenues when properties are annexed to Modesto; and

WHEREAS, the total revenue for the District is $1,500 per year.

NOW, THEREFORE, the parties agree as follows:

1. After the annexation is complete, District will invoice the City annually in January the amount of $1,500 to compensate for the loss of property tax revenue.

2. District will provide Standard Fire Protection Services including fire and EMS at the City of Modesto's Wastewater Treatment Plant Facility.

3. City and District will meet every three years at the request of either the City or the District to review terms of this agreement and make amendments as needed.

4. City or District may cancel this agreement 90 days notice to the other party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duty authorized on the date first hereinabove written.

CITY OF MODESTO

By: _____
Greg Nyhoff, City Manager

Date: _____

WESTPORT FIRE DISTRICT

BY: _____
Gary Thompson, Fire Chief

Print Name: Gary Thompson

Date: 04/14/09

APPROVED AS TO FORM AND LEGALITY:

By: _____
Roland Stevens, Asst City Attorney

ATTEST:

By: _____
Stephanie Lopez, City Clerk

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-347

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS REGARDING THE DEDICATION OF RIGHT-OF-WAY ALONG WEST MAIN STREET, THE FUTURE MAINTENANCE OF JENNINGS ROAD AND COOPERATION ON FUTURE TRANSPORTATION STUDIES FOR THE SOUTH COUNTY CORRIDOR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, the City of Modesto desires to annex to the City the unincorporated area that includes the Jennings Wastewater Treatment Plant, and

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the Jennings Wastewater Treatment Plant was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road, and

WHEREAS, a portion of the Jennings Wastewater Treatment Plant totaling 102.7 acres was annexed into the City on December 30, 1969, and

WHEREAS, the City of Modesto has submitted a written request to initiate annexing the remainder of the Jennings Road Wastewater Treatment Plant, 15 parcels totaling 4,690 acres, to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the proposed annexation adjoins or surrounds sections of Jennings Road, West Main Street, and

WHEREAS, on August 7, 2009, City of Modesto representatives met with County of Stanislaus representatives pursuant to Government Code Section 56425(a) to discuss the proposed sphere amendment and its boundaries, and

WHEREAS, the County of Stanislaus and City of Modesto staffs recognize that it would be mutually beneficial if a single agency operated and maintained the section of Jennings Road adjacent to the Jennings Plant, and

WHEREAS, the City agrees to maintain the approximately 2.8 mile section of Jennings Road north of West Main Street to the north property line of City owned property near the Westport Drain Channel, and

WHEREAS, the County of Stanislaus envisions a future South County Corridor which might traverse the Jennings Wastewater Treatment Plant, and

WHEREAS , the City agrees to grant an irrevocable deed of 27 feet on each side of West Main Street so as to enable future widening and participate in transportation studies for the South County Corridor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between the City of Modesto and the County of Stanislaus regarding the dedication of right-of-way along West Main Street, the future maintenance of Jennings Road, and cooperation on future transportation studies for the South County Corridor.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding, as set forth in **Exhibit "A" attached** hereto.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Memorandum of Understanding
Between the City Of Modesto and Stanislaus County
for the Jennings Treatment Plant

MEMORANMUM OF UNDERSTANDING
BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY
FOR THE
JENNINGS TREATMENT PLANT

This Memorandum of Understanding is made and entered by and between the City of Modesto ("City"), and the County of Stanislaus ("County")" for the Jennings Treatment Plant, on _____, 2010.

WHEREAS, Jennings Road is a collector street, extending between Service Road and West Main Street, currently located entirely in the unincorporated area of Stanislaus County, operated and maintained by the County Public Works; and

WHEREAS, the City of Modesto desires to annex to the City the unincorporated area that includes the Jennings Treatment Plant; and

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Jennings Treatment Plant was constructed, located approximately seven miles southwest of the Modesto City limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a portion of the Jennings Treatment Plant totaling 102.7 acres was annexed into the City on December 30, 1969; and

WHEREAS, the City of Modesto has submitted a written request to initiate annexation of the remainder of the Jennings Treatment Plant, 15 parcels totaling 4,690 acres, to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq; and

WHEREAS, California Government Code section 56742 allows the annexation of noncontiguous territory which is used by a city for the reclamation, disposal and storage of treated wastewater; and

WHEREAS Government Code section 56428 authorizes any person or local agency to file a written request with the Executive Officer of its Local Agency Formation Commission ("LAFCO") to amend a sphere of influence; and

WHEREAS, the request to amend the City of Modesto's sphere of influence and the Resolution of Application are proposed pursuant to California Government Code Sections 56428, 56650, 56654 and 56700; and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition; and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein; and

WHEREAS, the Property is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and the nine cities in its jurisdiction, which was approved by the County Board on February 27, 1996; and

WHEREAS, the proposed Property is not subject to a Williamson Act Agreement, and

WHEREAS, the proposed annexation abuts or surrounds sections of Jennings Road, West Main Street and

WHEREAS, the Stanislaus County and City of Modesto staffs recognize that it would be mutually beneficial if a single agency operated and maintained the entire length of Jennings Road; and

WHEREAS, the Stanislaus County envisions a future South County Corridor which might traverse the City of Modesto Jennings Treatment Plant; and

NOW THEREFORE, the County and City mutually agree as follows:

CITY OBLIGATIONS

1. The City shall cooperate and participate in transportation studies for the South County Corridor.

2. The City shall grant the County an irrevocable deed of land to expand the width West Main Street right-of-way to 110 feet to accommodated future widening to County Standard for a four lane road. The Current recorded right-of-way is 90 feet, so the City will provide ten (10) additional feet on each side of West Man Street as it passes through the annexed area. .

3. The City shall maintain, according to Stanislaus County Standards, the section of Jennings Road north of West Main Street to the north property line of city owned property near Westport Drain channel. Maintenance shall be performed on a schedule similar to Stanislaus County road maintenance. This road maintenance will be accomplished with City of Modesto funds.

4. All work completed in the West Main Street right-of-way for the installation of a future recycled water line, shall be done in accordance with County Standards in place at the time the work is commenced.

COUNTY OBLIGATIONS

1. The County shall provide advance notice of County road maintenance in the area of Jennings Road for the purpose of collaboration of effort to maintain Jennings Road at the lowest possible cost.
2. The County shall continue to be fully responsible for all work related to operation, maintenance, repair, and improvements to the section of West Main Street that

passes over the annexed area. This work will be accomplished with County funds.

3. At no cost to the City, the County will allow the City access and use of the right-of-way along West Main Street including the bridge that crosses the San Joaquin River for installation of a future recycled water line.

MISCELLANEOUS PROVISIONS

1. Additional Documents: Each party shall, at the request of the other, acknowledge and deliver whatever additional instruments and do such other acts as may be reasonably necessary to carry out the intent and purpose of this Agreement.

2. Entire Agreement: This Agreement is the entire agreement of the parties. There are no understandings or agreements pertaining to this Agreement except as are expressly stated in writing in this Agreement or in any document attached hereto or incorporated herein by reference.

3. Amendment: Any amendment of this Agreement shall be in writing, signed by both parties hereto.

4. Negotiated Agreement: This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party that prepared this Agreement within the meaning of California Civil Code Section 1654.

5. Indemnity: Neither party, nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this Agreement. The parties further agree, pursuant to Government Code section 895.4, that each party shall fully indemnify and hold harmless the other party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement.

6. Notices: Any notices required herein shall be in writing and be given personally or by certified mail, return receipt requested, addressed to the respective parties as follows:

To County: Stanislaus County Public Works Engineering Division
Attention: Matt Machado
1010 10th Street, Suite 3500
Modesto, CA 95354

To City: City of Modesto Public Works Department
Attention: Dennis Turner

1010 10th Street, Suite 4100
Modesto, CA 95354

1.0 Counterparts: This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one Agreement.

In WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written above.

COUNTY OF STANISLAUS

Richard Robinson
Chief Executive Officer

APPROVED AS TO FORM:
John P. Doering
County Counsel

By:_____
Thomas E. Boze
Deputy County Counsel

CITY OF MODESTO

Greg Nyhoff
City Manager

APPROVED AS TO FORM:
Susana Alcala Wood
City Attorney

By:_____
Roland R. Stevens
Assistance City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-348

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE WASTEWATER MASTER PLAN UPDATE MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2006052076): FILING OF AN APPLICATION WITH THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO AMEND MODESTO'S SPHERE OF INFLUENCE AND ANNEX 4,690 ACRES, AND AMENDING SECTIONS 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8,10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 OF THE ZONING MAP OF THE CITY OF MODESTO TO: PREZONE FROM GENERAL AGRICULTURE, A-2-20 TO PLANNED DEVELOPMENT ZONE, P-P-D(592), REZONE FROM LOW DENSITY RESIDENTIAL, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(592) AND AMEND PREZONING FROM PLANNED DEVELOPMENT ZONE, P-P-D(506) TO PLANNED DEVELOPMENT ZONE, P-P-D(592), PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON THE SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (CITY OF MODESTO)

WHEREAS, on March 13, 2007, by Resolution No. 2007-178, the City Council certified the City of Modesto Wastewater Master Plan Update Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the City of Modesto has proposed filing an application with the Local Agency Formation Commission to amend Modesto's sphere of influence and annex the Jennings Wastewater Treatment Plant, rezone 103 acres from Low-Density Residential, R-1, to Planned Development Zone, P-D(592), prezone 4,639 acres Planned Development Zone, P-P-D(592), and amend the prezoning for 51 acres from Planned Development Zone, P-P-D(506) to Planned Development Zone, P-P-D(592) to allow for: Structures or grounds operated by a government agency, including but not limited to: wastewater treatment and storage facilities, reclaimed water and bio-solids disposal area, agricultural operations, law enforcement firing range, compost facility and other ancillary uses approved by the City Council, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-19 ("Initial Study") reviewed the proposed application for annexation, sphere of influence amendment, rezone to Planned Development Zone P-D(592)and prezone to Planned Development Zone, P-P-D(592), to determine whether the project is within the scope of the project covered by the Wastewater Master Plan Update Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on June 16, 2010, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on July 6, 2010, 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 application for annexation, sphere of influence amendment, and prezone to Planned Development Zone, P-P-D(592), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2006052076) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Initial Study

EA/C&ED No. 2009-19

City of Modesto

Finding of Conformance to Wastewater Master Plan Update Master EIR:

Initial Study Environmental Checklist EA/C&ED No. 2009-19

For the proposed:

Jennings Road Secondary Wastewater Treatment Facility Annexation (City of Modesto (Applicant))

Prepared by:
City of Modesto
Community and Economic Development Department
Planning Division

Updated June 11, 2010

City of Modesto
Wastewater Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Wastewater Master Plan Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Jennings Road Secondary Wastewater Treatment Reorganization is "within the scope" of the project analyzed in the Modesto Wastewater Master Plan Master EIR (SCH# 2006052076) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City's Wastewater Master Plan MEIR (SCH# 2006052076) was also consulted which lists mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Jennings Road Secondary Wastewater Treatment Facility Reorganization

B. Address or Location: 7007 Jennings Road, Modesto, CA 95358, property located approximately seven miles southwest of the Modesto City limits on south side of Keyes Road, west of Vivian Road.

Applicant: City of Modesto - Public Works Department, Attn: Nicholas Pinhey
1010 Tenth Street,
P. O. Box 642,
Modesto, CA 95353

D. City Contact Person:

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5302
E-mail address: dwage@modestogov.com

E. Current County General Plan Designation(s): Agriculture

F. Current Zoning Classification(s): Stanislaus County has zoned the property A-2-40 (General Agricultural); the property is proposed to be prezoned/rezoned to Planned Development Zone, P-D(592).

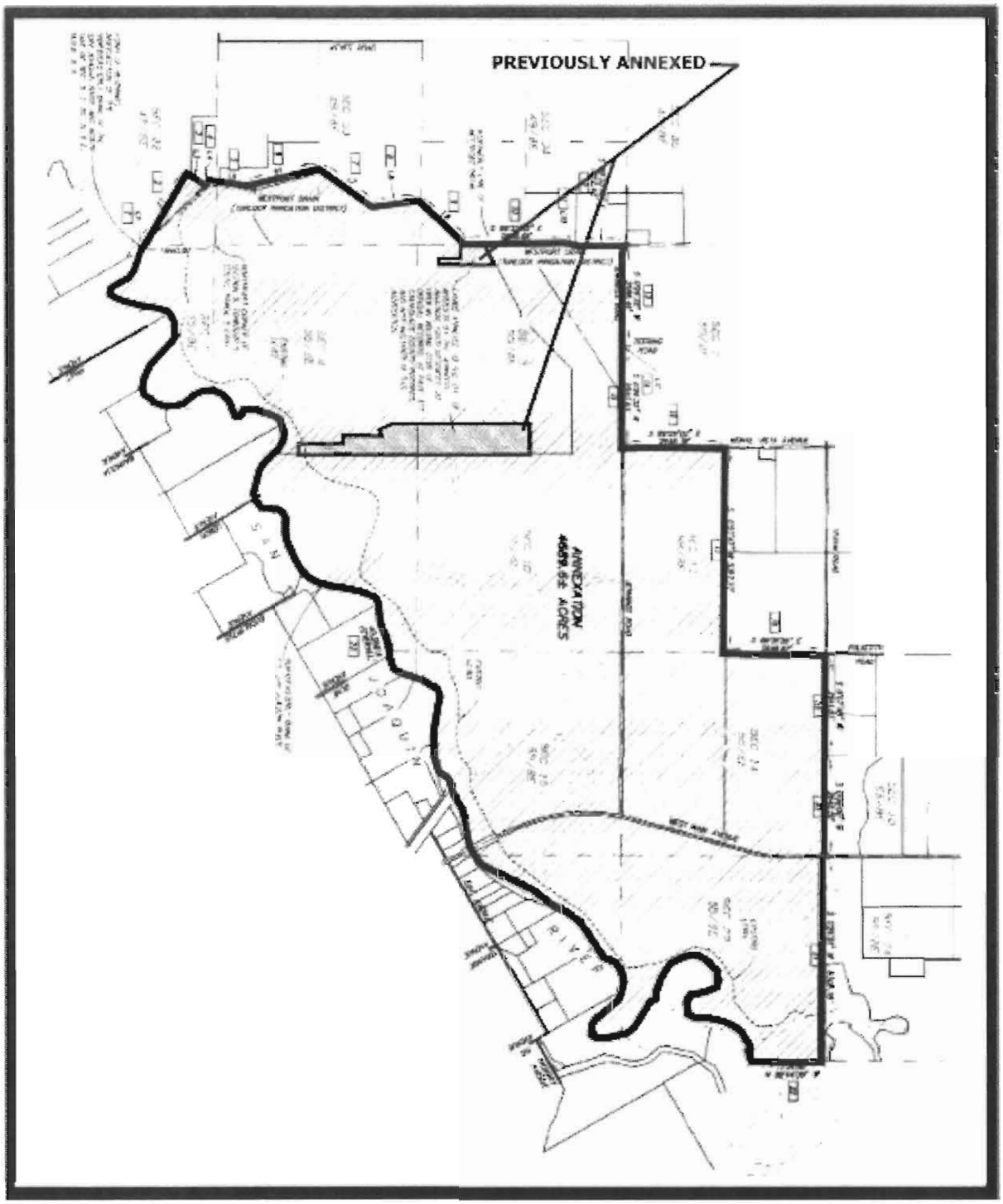
G. Surrounding Land Uses: North: Agricultural
South: Agricultural
East: Agricultural
West: Agricultural

H. Project Description

A portion of the Jennings Wastewater Treatment Plant (three parcels, 103 acres) was annexed into the City on December 30, 1969. This project includes the annexation of the remainder of the Treatment Plant, 15 parcels totaling 4,690 acres. The area to be annexed is not contiguous with the existing City boundaries and would be annexed pursuant to Government Code 56742, which allows for the annexation non-contiguous territory used for wastewater facilities. The project does not include new development or the expansion of any onsite facilities. The City's compost facility and the Modesto Police Department firing range are also located on the subject property and would be included in the annexation.

The 103 acres which was annexed into the City in 1969 is zoned Low-Density Residential, R-1. In 1995, the City attempted to annex and prezone 51.1 acres of the Jennings Wastewater Treatment Plant. The Council approved the prezoning of 51.1 acres to P-P-D(506); however, the annexation was not completed. As part of the subject application, the 51.1 acres previously prezoned to P-P-D(506) will be amended to a prezone of P-P-D(592). The 103 acres annexed to the City and zoned R-1, will be rezoned to P-D(592). The remainder of the property, 4638.9 acres will be prezoned Planned Development Zone, P-P-D(592). As a result of these actions, the entire 4,793 acre site will be uniformly zoned P-D(592) following the annexation. P-D(592) will allow the following uses: Structures or grounds operated by a government agency, including but not limited to: wastewater treatment and storage facilities, reclaimed water and bio-solids disposal area, agricultural operations, law enforcement firing range, compost facility and other ancillary uses approved by the City Council.

As part of the annexation application, the Sphere of Influence would be amended to reflect the change in City boundaries.



PROPOSED SITE MAP

(Large-format version of plan attached to Commissioners' agendas)

I. Other Public Agencies Whose Approval is Required:
Local Agency Formation Commission

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The project is within the scope of the Wastewater Master Plan Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter III of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter III of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. ___ **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter III of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

David Wogel — Project Manager

Associate Planner — Title

6/14/10 — Date

4. Within the Scope Analysis of this Document:

The Wastewater Master Plan Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects is the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the Wastewater Master Plan Master EIR.	X	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the Wastewater Master Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings.	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the Wastewater Master Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Wastewater Master Plan Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect buildout of the project as identified in the MEIR.

The Master EIR for the Wastewater Master Plan organizes its analysis of environmental impacts into eleven subject areas plus Effects Found Not to be Significant (and additional five topics). The following analysis is based on the impact analyses contained in Chapter IV of the Master EIR.

1. AESTHETICS (Visual Resources)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. At that level of detail, no significant effects on Visual Resources were identified. This topic is discussed in Chapter 4.I of the MEIR

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

No mitigation measures for this topic are identified in the MEIR. Any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

c. Project-Specific Effects

Section IV.I of the MEIR provides analysis of Visual Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.		X
(2)	The project would have a substantial adverse effect on a scenic vista or scenic resources.		X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.		X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.		X

Discussion:

This project was anticipated and is consistent with the Modesto Wastewater Master Plan. The project is limited to the annexation, rezoning/prezoning and sphere of influence amendment to include the Jennings Road Secondary Treatment Plant. There are no new buildings or facilities are proposed in conjunction with the project.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.B of the MEIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Construction of the Phase IA tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland (Significant and Unavoidable).

Effect: Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of Prime Farmland (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.B.8 and IV.B.11 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan and/or the Modesto Wastewater Master Plan.	☐	X
(2)	The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries.	☐	X
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use.	☐	X

Discussion:

(1) The proposed annexation is consistent with the Modesto Wastewater Master Plan.

(2) The project area is located outside of the Modesto Urban Area General Plan; however no new development will occur in conjunction with the proposed annexation. The project is consistent with General Plan Policy III-C1(e), which calls for the annexation of the Secondary Treatment Plant.

(3) Secondary Treatment Plant site is currently zoned A-2-40 (General Agricultural) in the County. The City will pre-zone the property P-P-D, which will allow for public buildings or grounds operated by a government agency. The existing Secondary Plant and its associated agricultural operations would be allowed to continue. The subject property is not Subject to a Williamson Act Contract.

(4) No new development will occur in conjunction with the proposed annexation.

3. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.G of the MEIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: Emissions of criteria pollutants during the operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).

Effect: The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.G.16 through IV.G.28 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.G of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project does not incorporate the best management practices for air pollutant reduction established by the SJVUAPCD.	☐	X
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(3)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(4)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

Annexation of this property was anticipated in and is consistent with the Modesto Wastewater Master Plan EIR. The annexation will not have an impact on air quality. Future projects related to the waste facility will require further environmental review. Development projects must comply with General Plan policies and rules established by the San Joaquin Valley Unified Air Pollution Control District for reducing air quality impacts.

4. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.E of the MEIR

The Master EIR identified the following significant environmental impacts relative to Biological Resources.

Effect: Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the Valley Elderberry Longhorn Beetle (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause loss of occupied Burrowing Owl habitat (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause disturbance of nesting raptors (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook and of the Tuolumne River (Less than Significant with Mitigation).

Effect: Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson's Hawk foraging habitat (Less than Significant with Mitigation).

Effect: Construction during the Swainson's Hawk breeding season could result in the accidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment (Less than Significant with Mitigation).

Effect: Construction of improvements to the Secondary Plant may cause impacts to regulated habitats (Less than Significant with Mitigation).

Effect: Microtunneling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers (Less than Significant with Mitigation).

Effect: Growth facilitated by the project would result in cumulative loss of Swainson's Hawk and Burrowing Owl habitat (Less than Significant with Mitigation).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Biological Resources mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.E.25 through IV.E.37. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.E of the MEIR provides analysis of Biological Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

Annexation of this property was anticipated in and is consistent with the Modesto Wastewater Master Plan EIR. The proposed annexation will not result in the disturbance of any biological resources. Future projects on the Secondary Wastewater Treatment Facility site will be subject to additional environmental review.

5. CULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (pp. IV.L.10-13) of the MEIR

The Master EIR identified no significant environmental impacts relative to Cultural Resources.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Cultural Resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project

Discussion:

The Secondary Treatment Plant was built in 1969 and none of the buildings on the site are listed on any local state of federal registers. The proposed project would not involve the demolition or alteration of any historic architectural resource. The Secondary Plant is located along the San Joaquin River, a sensitive riparian corridor; however the proposed annexation would not have a significant impact on any cultural resources. No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.L (pp. IV.L.10-12) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5.	☐	X
(3)	The project would directly or indirectly destroy a unique paleontological resource or site, or disturb any human remains, including those interred outside of formal cemeteries.		X

Discussion:

Annexation of this property was anticipated in and is consistent with the Modesto Wastewater Master Plan EIR. No development is proposed in conjunction with the proposed project. The project will not have an impact on any cultural resources and any future project will be subject to additional environmental review.

6. GEOLOGY AND SOILS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L of the MEIR

The Master EIR identified no significant environmental impacts relative to Geology and Soils.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Geology and Soils mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.L (pp. IV.L.7-9) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:

The project is consistent with the Modesto Wastewater Master Plan. There are no known active faults in the Modesto area and the land slope is very slight. No new facilities or structures are proposed as a part of this project. All future facilities will be constructed in accordance with the Uniform Building Code and would incorporate seismic principles and site-specific geologic data.

7. HAZARDS AND HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.J and IV.K of the MEIR

The Master EIR identified no significant environmental impacts relative to hazardous materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazard and Hazardous Materials mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.K.11 through IV.K.15. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.J and IV.K of the MEIR provides analysis of hazardous materials and contaminated soils and Demolition impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

Discussion:

The proposed project does not involve the use of additional chemicals or include the expansion of new facilities. There are no significant impacts, which are not mitigated by existing policies and regulations.

8. HYDROLOGY AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.D of the MEIR

The Master EIR identified the following significant environmental impacts relative to Hydrology and Water Quality:

Effect: Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies (Less than Significant with Mitigation).

Effect: Elimination of the cross-connections between the stormwater drainage system and the wastewater collection system could result in localized flooding (Less than Significant with Mitigation).

Effect: Implementation of the proposed project at a rate that does not match projected growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation due to pollutant loading associated with treated wastewater discharges (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area (Significant).

Effect: The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality (Less than Significant with Mitigation).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hydrology and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.D.26 through IV.D.41 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.D of the MEIR provides analysis of Hydrology and Water Quality impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

The proposed project is consistent with the Modesto Wastewater Master Plan. The project will not have an impact on the current operation of the plant or cause a conflict with federal or state law. The project will not result in increased runoff.

9. LAND USE AND PLANNING (Land Use, Plans, and Policies)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.A of the MEIR

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Land Use and Planning mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan or any applicable Specific Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan or any Specific Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

The project site includes the established Secondary Wastewater Treatment Facility, an area specifically set-aside in the City's plans for this use. General Plan Policy III-C1(e), specially calls for the expansion and annexation of the Secondary Treatment Plant. Portions of the site are currently within the jurisdiction of Stanislaus County, which broadly designated the area as Agriculture in its General Plan and zones the site A-2-40 (General Agriculture). The City is proposing to annex the site, amend its sphere of influence and pre-zone the site (P)P-D, Planned Development Zone. The P-D zone will allow for the operation of the Secondary Plant as well as public buildings or grounds operated by a government agency. The existing secondary treatment plant is consistent with this zoning designation.

10. MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.8) of the MEIR

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Mineral resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan.	☐	X
(2)	The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance.	☐	X

Discussion:

There is no development associated with the proposed project. Future projects on the site will require additional environmental review.

11. NOISE

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.H of the MEIR

The Master EIR identified the following significant environmental impacts relative to Noise:

Effect: Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City's General Plan MEIR and the County General Plan (Less than Significant with Mitigation).

Effect: The proposed project would support cumulative development thsat could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and/or Stanislaus County, or the noise performance standards set by the City and County (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.H.9 through IV.H.9 13 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.H of the MEIR provides analysis of noise impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	X
(2)	The project will exceed the noise policies of the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

There are no new facilities proposed in conjunction with the project-. Future projects on the site will require additional environmental review.

12. POPULATION AND HOUSING

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.13) of the MEIR

The Master EIR identified no significant environmental impacts relative to population and Housing.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Population and Housing mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.	☐	X

Discussion:

There are currently less than a total of five ranch employees living in the two residential buildings on the Secondary Wastewater Treatment site. The project will not provide capacity for new growth of population. The area to be annexed is remote from any existing housing developments and will not result in the displacement of persons on or off site.

13. COMMUNITY SERVICES: PARKS, SCHOOLS, POLICE, AND FIRE

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.C and IV.L (p. IV.L.1-5) of the MEIR

The Master EIR identified no significant environmental impacts relative to Community Services.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The annexation area will continue to be served by the Mountain View and Westport Fire Protection Districts. The Modesto Police Department has indicated that it is able to provide adequate service to the subject site without additional staffing, as industrial property does not require substantial additional policing.

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.	☐	X

Discussion:

The proposed annexation is a public infrastructure project within the context of the established Secondary Wastewater Treatment Facility and it will have no impact on parks or schools. The project is consistent with General Plan Policy III-C1(e), which calls for the expansion and annexation of the Secondary Treatment Plant.

14. TRANSPORTATION/TRAFFIC (Transportation)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.F of the MEIR

The Master EIR identified the following significant and unavoidable traffic impacts:

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages IV.F.12. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.F of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent project will have a new significant effect on the environment if it would exceed the following criteria:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.	☐	X
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X

Discussion:

The project is consistent with General Plan Policy III-C1(e), which calls for the expansion and annexation of the Secondary Treatment Plant. The proposed annexation is a public infrastructure project within the context of the established Secondary Wastewater Treatment Facility and will not generate a significant number of new trips. The Wastewater MEIR included the subject site. No new or additional mitigation measures or alternatives are required for the project.

15. UTILITIES AND SERVICES SYSTEMS: WATER SUPPLY, SANITARY SEWER, STORM DRAINAGE, SOLID WASTE, ENERGY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.5, 9-10) of the MEIR

The Master EIR identified no significant environmental impacts relative to Community Services.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The site is currently regulated under the Stanislaus County Stormwater Program. Annexing this property to the City of Modesto will cause all activities occurring at this site to be subject to the Modesto Municipal Code Stormwater Ordinance Title 5, Chapter 10. No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.	☐	X

Discussion:

There is no new development proposed in conjunction with this project. The annexation will not result in the need for additional solid waste, wastewater or storm water facilities. The Turlock Irrigation District serves the Secondary Wastewater Treatment Plant with electricity. No new or additional measures or alternatives are required for the project.

15. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Urban Area General Plan Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	X
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	X
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	X

Discussion:

(1-2) The proposed project includes the annexation of an existing wastewater treatment plant. There is no new development or expansion proposed as part of this project. The project does not conflict with any General Plan Policies related to climate change and would not result in a greater number of automobile trip lengths or CO_2 emissions.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration or EIR shall be prepared for the project and the additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Aesthetics/Visual Resources Measures:

None.

Agricultural Resources Measures:

None.

Air Quality Measures:

None.

Biological Resources Measures:

None.

Cultural Resources Measures:

None.

Geology and Soils Measures:

None.

Hazard and Hazrdous Materials Measures:

None.

Hydrology and Water Quality Measures:

None.

Land Use and Planning Measures:

None.

Mineral Resources Measures:

None.

Noise Measures:

None.

Public Services Measures:

None.

Transportation/Traffic Measures:

None.

Utility and Service System Measures:

None.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-349

RESOLUTION APPROVING THE COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM STRATEGIES INCLUDING AUTHORIZING THE COMMUNITY DEVELOPMENT REVOLVING LOAN COMMITTEE TO REVIEW AND APPROVE LOANS OF UP TO $100,000 DOLLARS AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS RELATED THERETO AND DIRECT STAFF TO RETURN IN SIX MONTHS WITH A STATUS REPORT ON THIS PROGRAM

WHEREAS, the City's Strategic Plan calls for the implementation of activities which promote business opportunities and economic development, and

WHEREAS, City staffs working with the Alliance have developed strategies for an Community Development Revolving Loan Program, and

WHEREAS, the creation and retention of jobs is an economic development activity which is eligible for Community Development Block Grant funding when certain criteria are met, and

WHEREAS, the City proposes to utilize the Community Development Block Grant funding to create and retain jobs of which at least fifty-one percent (51%) will be made available to low and moderate income Modesto residents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Community Development Revolving Loan Program Strategies described in **Exhibit A**, and hereby authorizes the Community Development Revolving Loan Committee to approve loans of up to $100,000 dollars and authorizes the City Manager to execute the necessary documents related thereto. Staff is further directed to return to Council in six months with a status report on the program and further recommendations on adoption of Program Guidelines.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO COMMUNITY DEVELOPMENT (CD) REVOLVING LOAN FUND

LOANS TO BUSINESSES

Background: As businesses and markets go through transition their borrowing needs often do not meet traditional lenders requirements. The purpose of the City-sponsored Community Development (CD) Revolving Loan Fund is to help meet these needs when a qualifying public policy purpose is also being achieved. Ideally these funds can be leveraged through other resources, to expand the total amount of funds and/or other resources available to the businesses. It is expected that some of the resources leveraged will include "Technical Assistance" in addition to other lenders. Programs like this have traditionally averaged over 4:1 leverage from other funding sources.

It is anticipated that as businesses grow, they will need to work with new lenders and/or acquire additional assets that would not be covered or funded through this loan program; it is understood at times that lien positions may need to be altered either for collateral or position to facilitate new capital needs. The debt may be subordinate to another lenders debt, but not debt of a principal.

Key Public Policy Objectives that are part of this program include:

- Increased employment, with an emphasis on targeted socio-economic groups that meet the criteria defined under federal Department of Housing & Urban Development (HUD) guidelines.
- Increased economic activity, through the addition, expansion or retention of employers.
- Increased economic diversity, as new companies may expand the services available in the local/regionally area.

BORROWER ELIGIBILITY

Target Companies: Small businesses operating within the City of Modesto's sphere of influence with a priority placed on companies owned by disadvantaged groups, and/or located in or employing people residing in low income census tract areas.

FINANCIAL CRITERIA

Profitable with positive trends: This would be net income after interest and depreciation expenses, positive trends do not require sales to be increasing if profitability or cash available to service debt is improving. A decline in sales should be noted and explained though.

Adequate Cash Flow: This is based on cash available to service debt, or net income after taxes and owner distributions, plus depreciation, amortization, and interest expense; compared to the past and/or projected debt service. The threshold for adequate is 1:1, with a plan to exceed 1.5:1, where X:Y is X=projected debt payments (annually) and Y=cash available to service debt (annually.) If adverse trends are present an alternative plan should be prepared. Nonrecurring/One time items should be excluded or adjusted from the calculations. An aggregate cash flow of borrower and guarantors may be used to support the request.

Positive Tangible Net Worth: Tangible assets, less debt. Intangible assets include debt to shareholder(s). Consideration should be given to assets that are under or overvalued in the balance sheet, e.g. accelerated depreciation of equipment, real estate, obsolete inventory, etc.

Alternative Plan: If the above levels are not currently being achieved, a reasonable plan for the accomplishment of the following should be part of the loan request:

Profitability: Positive net income.

Adequate Cash-Flow: Funds available to service debt to cover projected debt service 1.25x or more for producing assets or 1.5x or more to one for non-producing assets. (May be consolidated with guarantor(s) at goal of 1.75x.)

Positive Tangible Net Worth: Reaching positive or within conventional lending guidelines.

LOAN TERMS

Project Amount: $25,000 or more.

Loan Amount: $25,000 or more, with emphasis given to loans that leverage other resources.

Loan Types: Term Loans: Maturity from 1-7 years, amortization to begin within 12 months from note date, e.g. interest only for a period of up to one year. Repayment based on amortization of up to 10-years, unless longer term/amortization required by the Small Business Administration (SBA) if leveraged transaction with other funds. Funding may be done in stages, by month.

Payment deferrals and interest rate adjustments may be considered on a case-by-case basis.

Short Term (in lieu of a line of credit)

Interest Rate: Pricing in accordance with type of request, generally Wall Street Journal Prime plus 3% floating, a fixed rate may be approved on a case-by-case basis. A rate floor of 7.25% and cap of 18% will apply after the pilot stage. The rate may increase after a period of time, to encourage borrowers to move to traditional financing as they progress (thus allowing other companies to benefit from the lending program.) The rate structure should be noted in the loan summary. Interest payments are meant to grow the program and provide future leverage of resources for other companies.

Interest Rate -Pilot Period/Intro Rate:
The rate may be reduced during an initial period to meet other public policy goals and/or during the pilot stage to accomplish program goals or compensate for the pilot nature of the program.

Origination Fee: 2% origination fee, with a $250.00 minimum, and documentation fee of $250.00 will apply for standard loan documents. Any and all third-party fees, UCC, and legal fees to be reimbursed by the borrower. This can be reimbursed or deducted from the loan proceeds.

LOAN PURPOSES

Expansion of Business: An existing business growing through acquiring new equipment, purchase of or expanding or remodeling building space, or to otherwise expand their productive capacity. (Loan term/amortization generally mirrors SBA guidelines, e.g. an amortization of 7-10 years or less, with an exception for the purchase of a building/facility that can be amortized over 30 years and due in 10 years to meet SBA requirements.) If loan purpose is leasehold improvements-term should mirror lease terms or be properly mitigated.

Working Capital: Help provide long-term working capital injection for an existing business. This would be with the intent to retain or increase jobs.

Business Start-up: In rare circumstances, the loan program may entertain requests for business start-up loans. Investors/Principals should have a material intellectual and equity investment in the business, and previous business experience. Ideally the business experience should be in a directly or closely related field. If a company has been in business for less than 12 months, it is considered a start-up. For business start-ups the principals' recent credit history should be superior, with no unexplained slow payments within the last 24-months. Over 2 unrelated 30-day late accounts in the last 12 months would be considered a significant adverse factor and require mitigation.

Projections should be properly vetted and supported when compared to favorable industry standards.

Management: Adequate experience should be in place to cover the management of the business as determined by Committee based on relevant industry standards.

Size of Business: Generally annual revenues of $10 million per year or less, or meeting the SBA size definition of a small business for their classification. Revenue is generally based on the historical facts (taxes), if a company has an adverse change during the current tax year that would create eligibility the exception can be reviewed on a case-by-case basis.

Type of Business: Initially for profit businesses are eligible, non-profit businesses can be reviewed on a case-by-case basis with emphasis given to impact on employment. The business must operate legally within the laws of California and at the location it operates.

Operating History: For all uses except business start-up, the business should have been in business for over 12 months prior to the date of application.

Financial Criteria: The following are minimum criteria for eligible businesses:

1) Must be profitable with positive trends;
2) Must have and maintain an adequate cash flow;
3) Must possess a positive tangible net worth.

In the event these conditions are not present, applicant's shall demonstrate a reasonable plan to achieve these conditions preferably within the first 12-24 months is to be provided as part of the approval process. Ideally the loans should be collateralized by collateral. Preference is given to companies that can margin the collateral (Loan to value of under 80%, or less.)

Credit Bureau(s) should be in the file and explanation of any derogatory items noted in the file. See special criteria under Business Start-up regarding credit.

Loans from principals to the business should be subordinated to the Loan(s), these are then considered equity.

Annual updates should be provided, with comments about progress towards the financial goals. Key ratios to observe and monitor are: debt service coverage based on funds flow [(net income after taxes, plus depreciation, amortization and interest) divided by debt payments], positive tangible net worth and profitability. This should be reviewed by City staff and placed in the loan file. The number of employees should be tracked on an annual basis, for employers with seasonal variations, peak and minimum employment can be noted to track progress.

Collateral: A filing on Business assets should be taken (UCC Filing Statement.) Ideally the collateral should be adequate to cover the value of the loan. In the alternative, a plan to reach proper collateralization should be identified in the plan. These will vary depending on relevant industry standards.

Technical Assistance: All companies using the program services should have already been involved with Technical Assistance, such as a Small Business Development Center or related program/provider.

Repayment: In the event of difficulty reaching financial objectives for debt service coverage, payments may be reduced to interest only requiring the execution of a new agreement.

CD Loan Committee: An approval committee shall review and approve loan requests with the limit of $100,000, or other amount as otherwise designated by the City Council. The committee shall be comprised with at least one primary representative from the City Council, Citizens Housing & Community Development Committee, City staff, and a community resource, such as the Stan Alliance or the Alliance Small Business Development Center or a Certified Development Company. Alternate members may vote in the absence of the primary member. Loans in excess of the committee approval limit would require ratification by the City Council. A City staff member shall be designated to act as Secretary to certify approval facts. The Secretary may be a voting committee member. A dissenting voter may provide an explanation, but is not required to. If a request is not approved or recommended by the committee the request may be appealed to the Council.

A majority vote of the Committee is required for approval. Approvals and modification requests must be made in writing and delivered in-person to the Parks, Recreation, & Neighborhoods Director. A written record of the approval should be kept and certified by the Secretary. City staff will provide regular and periodic updates to the City Council on any loan activity.

Subordination Requests: It is expected as participating companies expand they would need additional lending/funding, other lenders may need to be senior on collateral. Subordination and requests to

exchange collateral can be approved by the CD Loan Committee. Repayment may be allowed, in lieu of owner's draw/salary to cover living expenses-to reduce income taxes due. Limits may be placed on the total payments to principals for this purpose.

Collections: In the event of a payment default, collection may be turned over to a third-party. Collections generally would be handled by City staff.

LOAN SUMMARY

The following criteria should be captured in a loan summary:

- How funding will be used to hire or retain low to moderate income qualified employees under Department of Housing and Urban Development (HUD) guidelines.
- Business background, management history and product/business niche. Key clients existing and new/target. How referred into program.
- Financial operating results: Areas of strength and mitigation for weaknesses-Primary source of repayment.
- Financial balance sheet review: Key assets and liabilities, secondary source of repayment is generally from balance sheet sources.
- Additional notes regarding management/principals:
- Loan terms and collateral: Rate, repayment, and related items.
- Recap: Why the loan does not work conventionally, resources being leveraged-including from principals, strengths and weaknesses-recommendation. Future Conditions/results that would increase or decrease risk profile.

APPENDIX

Committee Members:
Council Representative: A primary and at least one alternate member shall be designated and approved by the City Council.

Staff Representative: A primary and at least one alternate member shall be designated by the Department Directors over Community & Economic Development and Parks, Recreation & Neighborhoods

Community Resource Representative: A primary and alternate member shall be designated and affirmed by the Citizens Housing & Community Development Committee.

Committee Members should excuse her/himself if any conflict of interest is present.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-350

RESOLUTION APPROVING A LOAN AGREEMENT BETWEEN THE CITY OF MODESTO AND MIKE PYLE, DOING BUSINESS AS AMERICAN METAL FABRICATORS, UNDER THE COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM IN THE AMOUNT OF $150,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LOAN AGREEMENT AND ASSOCIATED DOCUMENTS

WHEREAS, the City's Strategic Plan calls for the implementation of activities which promote business opportunities and economic development, and

WHEREAS, City staffs working with the Alliance have developed strategies for a Community Development Revolving Loan Program, and

WHEREAS, the creation and retention of jobs is an economic development activity which is eligible for Community Development Block Grant funding when certain criteria are met, and

WHEREAS, the City proposes to utilize the Community Development Block Grant funding to create and retain jobs of which at least fifty-one percent (51%) will be made available to low and moderate income Modesto residents, and

WHEREAS, American Metal Fabricators requests a loan of $150,000 and proposes to utilize these funds to retain four employees who have been qualified as low and moderate income Modesto residents and to hire one additional qualified employee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Loan Agreement between the City of Modesto and American Metal Fabricators in the amount of $150,000.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute the Loan Agreement and any associated documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of August, 2010, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-351

RESOLUTION APPROVING A JOB SHARING AGREEMENT WITH THE CITY OF HUGHSON FOR SENIOR PLANNER SERVICES ON A PART-TIME BASIS THROUGH FISCAL YEAR 2010-11; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Hughson has submitted a letter of interest to pursue a job-sharing agreement ("Agreement") with the City of Modesto for planning services, and

WHEREAS, the City of Hughson seeks the services from the City of Modesto of a qualified Senior Planner on a part-time basis, and

WHEREAS, the City of Modesto represents that it has qualified Senior Planners able to provide planning services required by the City of Hughson including, but not limited to, current planning, advanced (long-range) planning, environmental analysis, design review, growth management, redevelopment, and a variety of other related duties as assigned by the City of Hughson Planning Director, and

WHEREAS, the number of hours of service by Senior Planner is anticipated to be 16 hours per week, or 832 hours through Fiscal Year 2010/11, and

WHEREAS, the Agreement continues in effect through June 30, 2011, unless terminated earlier in accordance with the provisions of the termination clause of the Agreement, and

WHEREAS, the Agreement enables planning services to be shared between two cities, serves as a revenue source to the City of Modesto, and serves to retain experienced and well trained planning staff, and

WHEREAS, a public meeting was held on August 10, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place the job sharing Agreement was considered by the Modesto City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a job sharing Agreement with the City of Hughson for senior planner services on a part-time basis through Fiscal Year 2010-11.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-352

RESOLUTION APPROVING A JOB SHARING AGREEMENT WITH THE CITY OF OAKDALE FOR ASSOCIATE PLANNER SERVICES ON A PART-TIME BASIS THROUGH FISCAL YEAR 2010-11; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Oakdale has submitted a letter of interest to pursue a job sharing agreement ("Agreement") with the City of Modesto for planning services, and

WHEREAS, the City of Oakdale seeks the services from the City of Modesto of a qualified Associate Planner on a part-time basis, and

WHEREAS, the City of Modesto represents that it has qualified Associate Planners able to provide planning services required by the City of Oakdale including but not limited to current planning, advanced (long-range) planning, environmental analysis, design review, assistance to developers and the public on planning related matters, and other related duties as assigned by the City of Oakdale Planning Director, and

WHEREAS, the number of hours of service by Associate Planner is anticipated to be 16 hours per week, or 832 hours through Fiscal Year 2010/11, and

WHEREAS, the Agreement continues in effect through June 30, 2011, unless terminated earlier in accordance with the provisions of the termination clause of Agreement, and

WHEREAS, the Agreement enables planning services to be shared between two cities, serves as a revenue source to the City of Modesto, and serves to retain experienced and well trained planning staff, and

WHEREAS, a public meeting was held on August 10, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place the job sharing Agreement was considered by the Modesto City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a job sharing Agreement with the City of Oakdale for Associate Planner services on a part-time basis through Fiscal Year 2010-11.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-353

RESOLUTION AMENDING THE FISCAL YEAR 2010-11 OPERATING BUDGET TO INCREASE REVENUES AND EXPENSES IN FUND 0100 BY $84,330 (JOB SHARING AGREEMENTS WITH THE CITY OF OAKDALE AND THE CITY OF HUGHSON)

WHEREAS, for Fiscal Year 2010-11, the City Council adopted an operating budget of $1,105,755.00 for the Planning Division of the Community and Economic Development Department, and

WHEREAS, the adopted operating budget required the elimination of staff positions, and

WHEREAS, the City of Modesto 2001-2004 Strategic Plan outlines, (to) Promote regional public cooperation to enhance the City's initiatives for economic development (Goal VI), Present a unified position in economic development through full cooperation and coordination among various government agencies (Strategy VI.A), Support regional economic development research (Action VI.A.4) and seek external funding sources to improve the City's revenue stream (Strategy VII.A), and

WHEREAS, the job sharing agreements generate revenue to the City of Modesto in the amount of $84,330 and have a net positive fiscal impact,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-11 operating budget to increase revenues by $84,330 in Fund 0100-140-1430-4158.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-11 operating budget to increase expenses by $84,330 in Fund 0100-140-1430-0181.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-354

RESOLUTION AMENDING THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT FISCAL YEAR 2010-11 POSITION ALLOCATION TO INCLUDE THE RESTORATION OF ONE ASSOCIATE PLANNER POSITION AND ONE-HALF SENIOR PLANNER POSITION

WHEREAS, the City of Oakdale and the City of Hughson have submitted letters of interest in pursuing a job-sharing agreement ("Agreement") with the City of Modesto for planning services, and

WHEREAS, the City of Oakdale seeks the services from the City of Modesto of a qualified Associate Planner on a part-time basis, and

WHEREAS, the City of Hughson seeks the services from the City of Modesto of a qualified Senior Planner on a part-time basis, and

WHEREAS, the Associate Planner position allocation was eliminated in the budget reductions for FY 2010-2011, and

WHEREAS, the Senior Planner position allocation was reduced to a .50 FTE in the budget reductions for FY 2010-2011, and

WHEREAS, in order to provide services to the City of Oakdale and the City of Hughson these positions must be restored,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Community & Economic Development Department Fiscal Year 2010-11 position allocation to include the restoration of one Associate Planner position and one-half Senior Planner position.

BE IT FURTHER RESOLVED that the Human Resources 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 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-355

RESOLUTION DIRECTING STAFF TO APPLY FOR STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION GRANT SECTION 130 FUNDS IN THE AMOUNT OF $444,063, TO INSTALL A RAILROAD PRE-TRAFFIC SIGNAL AT 7TH AND B STREETS FOR THE UNION PACIFIC RAILROAD

WHEREAS, staff was notified that Section 130 funds may be available for the installation of a railroad pre-traffic signal at 7th and B Streets for the Union Pacific Railroad, and

WHEREAS, the project will be 100% funded with no City match, and

WHEREAS, the grant will upgrade the existing traffic signal system providing ADA Pedestrian Push Buttons and indications, vehicle detection, emergency pre-emption, wiring, curb, gutter, and sidewalk,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to apply for State of California Department of Transportation Grant Section 130 funds in the amount of $444,063, to install a railroad pre-traffic signal at 7th and B Streets for the Union Pacific Railroad.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-356

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF (30) MOBILE DATA COMPUTERS, WITH AN ADDITIONAL SIXTY-ONE (61) UNITS TO BE PURCHASED AT A LATER DATE, FOR THE CITY OF MODESTO POLICE DEPARTMENT, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT FROM THE CITY OF ELK GROVE, TO FEENEY WIRELESS, ROCKLIN, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN INITIAL ESTIMATED COST OF $166,482, AND ESTIMATED TOTAL COST OF $504,996

WHEREAS, in 2009 Police and Information Technology staff began researching and evaluating different manufacturer brands of mobile data computers (MDCs), Itronix and RoboVu. The Itronix GD8000 was selected because of price and functional capabilities, and

WHEREAS, a total of ninety-one (91) MDCs will be purchased for upgrade through wave implementation. Thirty (30) units will be upgraded now, thirty (30) units by November 2011, and thirty-one (31) units by October 2012, and

WHEREAS, the City explored the opportunity of purchasing MDCs by accessing the terms or "piggybacking" from a competitively bid contract. The City reviewed contracts from three (3) agencies, City of Elk Grove, Culver City and City of Lompoc. These contracts were provided by companies currently doing business with the City, General Dynamics, Itronix, (Feeney Wireless) and RoboVu. There are no local vendors that provide the product, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of (30) mobile data computers, including maintenance and warranty, with an additional sixty-one (61) units to be purchased at a later date, for the City of Modesto Police Department, by accessing the

terms of a competitively bid contract from the City of Elk Grove, Contract No. C-10-066, to Feeney Wireless, Rocklin, CA, for an initial estimated cost of $166,482, and estimated total cost of $504,996, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the MMC. One exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The award of bid for the purchase of MDCs for the City of Modesto Police Department, by accessing the terms of a competitively bid contract from the City of Elk Grove, to Feeney Wireless, Rocklin, CA, conforms to the MMC, and

WHEREAS, the Fleet Fund has sufficient funds budgeted for the initial purchase of MDCs in Appropriation Unit: 7210-480-5814-5050,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of thirty (30) MDCs, with an additional sixty-one (61) units to be purchased at a later date, for the Modesto Police Department, by accessing the terms of a competitively bid contract from the City of Elk Grove, to Feeney Wireless, Rocklin, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an initial estimated cost of $166,482, and estimated total cost of $504,996.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-357

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF ELECTRIC MOTOR REWINDING/REBUILDING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, TO ANDREWS ELECTRIC MOTORS, MODESTO, CA, AS "PRIMARY" CONTRACTOR, KOFFLER ELECTRICAL, SAN LEANDRO, CA, AS "SECONDARY" CONTRACTOR AND INDUSTRIAL ELECTRICAL, MODESTO, CA AS THE "THIRD" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT, FOR AN ESTIMATED ANNUAL COST OF $150,000 AND OVER FIVE (5) YEARS OF $750,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of electric motor rewinding/rebuilding services for various Public Works Departments, and

WHEREAS, the Purchasing Division issued RFB No. 0910-22 Electric Motor Rewinding/Rebuilding Services to thirteen (13) prospective bidders, posted the bid on the City's website, and formally advertised as required by law. Two (2) of the thirteen (13) prospective bidders were located within Stanislaus County, one of which is a local vendor that can provide these services, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Four (4) companies chose to respond, two prospective bidders are located in Stanislaus County. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of electric motor rewinding/rebuilding services for the Public Works Department, to Andrews Electric Motors, Modesto, CA, as "primary" contractor, Koffler Electrical, San Leandro, CA, as "secondary" contractor and Industrial Electrical, Modesto, CA as the "third" contractor

for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost not to exceed $150,000, and over five (5) years of $750,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of electric motor rewinding/rebuilding services for the Public Works Department conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted each year for this service in the following accounts,

6210-480-5208-0360, 6280-480-5310-0360, 6210-480-5213-0360, 6210-480-5214-0360, 6210-480-B107-6040, 6100-480-5013-0223-50,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of electric motor rewinding/rebuilding services for the Public Works Department, to Andrews Electric Motors, Modesto, CA, as "primary" contractor, Koffler Electrical, San Leandro, CA, as "secondary" contractor and Industrial Electrical, Modesto, CA as the "third" contractor.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $150,000 and over five (5) years of $750,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-358

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF CURB, GUTTER AND SIDEWALK REPLACEMENT SERVICES FOR THE PUBLIC WORKS DEPARTMENT, STREETS DIVISION, TO K&D ENTERPRISES INC., CERES, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $100,000 TO $200,000, DEPENDANT UPON AVAILABLE FUNDING

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for curb, gutter and sidewalk replacement services, and

WHEREAS, the Purchasing Division issued RFB No. 0910-22 Curb Gutter and Sidewalk Replacement Services to thirteen (13) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Seven (7) of the thirteen (13) prospective bidders were local vendors, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Three (3) companies chose to respond, none of which were local vendors. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of curb, gutter and sidewalk replacement services for the Public Works Department, Streets Division, to K&D Enterprises, Inc., Ceres, CA, for a two (2) year agreement with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $100,000 to $200,000, dependant upon available funding, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services

to be formally bid. The award of bid for the furnishing of curb, gutter and sidewalk replacement services for the Public Works Department, Streets Division, to K&D Enterprises, Inc., Ceres, CA, conforms to the Modesto Municipal Code.

WHEREAS, funds shall be budgeted for the furnishing of curb, gutter and sidewalk replacement services in Appropriation Unit: 0700-480-4724-0223, 0700-480-4617-0223, 0700-160-E004-6041 and 0700-480-E007-6041,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of curb, gutter and sidewalk replacement services for the Public Works Department, Streets Division, to K&D Enterprises, Inc., Ceres, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $100,000 to $200,000, dependant upon available funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-359

RESOLUTION APPROVING AN AGREEMENT WITH OVERLAND PACIFIC & CUTLER, INC. FOR RIGHT-OF-WAY ACQUISITION SERVICES FOR THE EMPIRE AVENUE IMPROVEMENT PROJECT, IN THE AMOUNT OF $68,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on March 23, 2010, the City Council, by Resolution No. 2010-095, approved a prequalified consultant list for right-of-way acquisition services for various projects within the City of Modesto, and

WHEREAS, as part of the Parks, Recreation and Neighborhoods Department, under a program and funding of the U.S. Department of Housing and Urban Development (HUD) and its Community Development Block Grant Program (CDBG), City streets have been identified for sidewalk installation and other improvements, and

WHEREAS, staff has identified sixteen parcels for partial acquisitions or temporary construction easements for a Capital Improvement Project (CIP) for street improvements along Empire Avenue between Monterey Avenue and Hillside Drive, and

WHEREAS, this street improvement project will include curbs, gutters, sidewalks, and street lighting to improve the deteriorating roadway and provide sidewalks for pedestrian safety, and

WHEREAS, property needs to be acquired for this street improvement project, and Overland Pacific & Cutler, Inc. has the expertise to provide the right-of-way acquisition services, and

WHEREAS, an Agreement with Overland Pacific & Cutler, Inc. is needed for consultant right-of-way acquisition services for the sixteen properties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Overland Pacific & Cutler, Inc., in the amount of $68,000, for right-of-way acquisition services or temporary construction easements for the Empire Avenue Improvement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-360

RESOLUTION AMENDING THE FISCAL YEAR 2010-20100 CAPITAL IMPROVEMENT PROGRAM BUDGET TO FULLY FUND AN AGREEMENT WITH OVERLAND PACIFIC & CUTLER, INC. FOR RIGHT-OF-WAY ACQUISITION SERVICES FOR THE EMPIRE AVENUE IMPROVEMENT PROJECT

WHEREAS, as part of the Parks, Recreation & Neighborhoods Department, under a program and funding of the U.S. Department of Housing & Urban Development and its Community Development Block Grant Program, certain City streets have been identified for sidewalk installation and other improvements, and

WHEREAS, staff has identified sixteen parcels for partial acquisitions or temporary construction easements for a Capital Improvement Project for street improvements along Empire Avenue between Monterey Avenue and Hillside Drive, and

WHEREAS, property needs to be acquired for this project, and Overland Pacific & Cutler, Inc. has the expertise to provide the right-of-way acquisition services, and

WHEREAS, certain budgetary transactions are necessary in the amount of $20,000, in order to fully fund the Agreement with Overland Pacific & Cutler, Inc. for right-of-way acquisition services for the Empire Avenue Improvement Project, and

WHEREAS, a budget adjustment will amend the Capital Improvement Program budget by moving funds from object 6040 (Construction) to 6010 (Engineering / Design / Admin) to fully fund the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Capital Improvement Budget as shown in **Exhibit B**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT B

Contact Person: Jody Christiansen
Telephone No.: 342-4707
Department: PRN

Council Action Date: 08/10/10
Resolution Number: 2010-

Adjustment to FY: MY

Fund Title: Revolving Loan
NRSA

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN					
FROM					
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
MY-1151-320-P014-604		$510,000	($20,000)	$490,000	Construction
TO					
MY-1151-320-P014-601		$60,000	$20,000	$80,000	Eng/Dsgn/Adm

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

Transfer $20,000 from object 6040 (Construction to Obj 6010 (Eng/Dsgn/Adm) to cover contract fees with Overland Pacific and Cutler, Inc. for professions fees for the partial acquisitions or temporary construction easements for the CIP - Empire Street Improvement project between Monterey Avenue and Hillside Drive.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____

BY_____**DATE**_____

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-361

RESOLUTION AUTHORIZING STAFF TO SUBMIT AN APPLICATION TO BECOME A HOST CITY FOR THE SIXTH ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS

WHEREAS, for the past five years, the Amgen Tour of California has swept through California for eight to nine days generating over $100 million of economic impact to the host cities and the State with over one billion marketing impressions created worldwide, and

WHEREAS, the City of Modesto was the Host City for the Stage 3 Start of the Third Annual Amgen Tour of California on February 20, 2008, the Host City for the Stage 3 Finish of the Fourth Annual Amgen Tour of California on February 17, 2009, and the Host City for the Stage 4 Finish of the Fifth Annual Amgen Tour of California on May 19, 2010, and

WHEREAS, the City of Modesto received lavish praise from local residents and from race officials and participants, and staff has been encouraged to submit a Request for Proposal (RFP) application to again become a Host City for the Sixth Annual Amgen Tour of California in May 2011, and

WHEREAS, the Amgen Tour of California has posted their RFP application for response from cities who wish to be considered as a "Host City" for the Sixth Annual Amgen Tour of California in May 2011, and

WHEREAS, the City of Modesto would like to become a "Host City" for the Sixth Annual Amgen Tour of California in May 2011, and

WHEREAS, the City of Modesto has read the requirements exhibited in Amgen's RFP and agrees to abide by the requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of a Request for Proposal application for the City of Modesto to apply to become a "Host City" for the Sixth Annual Amgen Tour of California.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-362

RESOLUTION TO AMEND THE FISCAL YEAR 2010-11 OPERATING BUDGET AUTHORIZING THE ALLOCATION OF AND FUNDNG FOR THREE MAINTENANCE WORKER II POSITIONS WITHIN THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, COMMUNITY FORESTRY DIVISION

WHEREAS, the Parks, Recreation and Neighborhoods Department, Community Forestry Division, has had significant budget reductions over the last few years, and

WHEREAS, due to these reductions the Forestry Division lost three Maintenance Worker II positions, and

WHEREAS, these positions were primarily responsible for the ground support services related to tree removals, stump grinding, root cutting, and low pruning, and

WHEREAS, due to the loss of ground support services there is currently a backlog of 850 service calls for tree removals and stump grinding, and

WHEREAS, the reallocation of these three Maintenance Worker II positions was recommended during the Fiscal Year 2010-2011 budget workshops and Finance Committee budget hearings, and

WHEREAS, the reallocation of three Maintenance Worker II positions will provide the necessary support to the Community Forestry division to supplement the tree removal crew, and

WHEREAS, the Community Forestry Stump Grinding Crew will provide the ground support needed to divert green waste to the City's compost facility, and

WHEREAS, the Stump Grinding Crew will be supported by funding through the AB 939 Green Waste Diversion Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the reallocation of three full-time Maintenance Worker II positions, classification range 114, in the Parks, Recreation and Neighborhoods Department, Community Forestry Division.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to make the necessary position changes in coordination with the Human Resources Department.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to amend the Fiscal Year 2010-11 operating budget to make the necessary revenue and expenditures changes as outlined in **Exhibit B** to the staff report.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit B

BUDGET ADJUSTMENT DETAIL
FISCAL YEAR 2010-11 AB 939 GREEN WASTE DIVERSION FUND

REVENUE:	Account	Amount
Recognize increase in transfer from AB 939 Green Waste Diversion Fund (6290) to General Fund (0100-4712)	Transfer	300,231
Decrease service credit revenue to Community Forestry	0100-350-4712-4909R	-65,500
EXPENSE:		
Allocate (3) Maintenance Worker II (salary)	0100-350-4712-0181	131,262
Allocate (3) Maintenance Worker II (benefits)	0100-350-4712-0191	55,134
Decrease interfund labor charges to Green Waste	6290-355-4444-0255	-65,500

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-363

RESOLUTION TO AMEND THE FISCAL YEAR 2010-11 OPERATING BUDGET AUTHORIZING THE ANNUAL TRANSFER OF $550,167 FROM THE AB939 GREEN WASTE DIVERSION FUND TO THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, COMMUNITY FORESTRY DIVISION TO SUPPORT THE COMMUNITY FORESTRY DIVERSION SERVICES

WHEREAS, the AB 939 Green Waste Diversion Fund was established in 2008 to fund diversion services through green waste diversion fees charged for residential and commercial bin waste, and

WHEREAS, the Parks, Recreation and Neighborhoods Department, Community Forestry Division, provides ground support and diversion services to the City's compost facility, and

WHEREAS, the Community Forestry Division receives supplementary funding through an annual transfer of $249,936 from the AB 939 Green Waste Diversion Fund, and

WHEREAS, full support of the Community Forestry diversion service is $550,167, and

WHEREAS, diversion services include the cost of three Maintenance Worker II positions, $186,396; honor farm supervision of the alternative work program, $114,000; two equipment operator positions, $129,038; and 40% of vehicle maintenance fees, $120,733, and

WHEREAS, the annual transfer to support the Community Forestry diversion services will be increased by $300,231 for a total annual transfer of $550,167, and

WHEREAS, an increased transfer was recommended during the Fiscal Year 2010-2011 budget workshops and Finance Committee budget hearings.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes an annual transfer of $550,167 from the AB 939 Green Waste Diversion Fund to the Parks, Recreation and Neighborhoods Department, Community Forestry Division.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to amend the Fiscal Year 2010-11 operating budget and 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 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-364

RESOLUTION APPROVING THE ALLOCATION OF HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION OPERATING FUNDS IN THE AMOUNT OF $90,000 TO STANCO AND $41,533 TO HABITAT FOR HUMANITY, STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS

WHEREAS, Community Housing Development Organization (CHDO) operating activities are funded through the HOME Investment Partnership Program (HOME), and

WHEREAS, these are Entitlement funds allocated to the City of Modesto from the Department of Housing and Urban Development (HUD), and

WHEREAS, under HUD regulations for the use of HOME funds, certified CHDOs may receive funds from Participating Jurisdictions (PJs) to pay for operating expenses, and

WHEREAS, PJs have the option of allocating each fiscal year up to five percent (5%) of their HOME allocation to provide CHDO operating expenses, and

WHEREAS, the City of Modesto has a combined total of $131,533 from FY 2009-2010 and FY 2010-2011, and

WHEREAS, to be eligible for these funds, it must be anticipated that the CHDO will be receiving CHDO set-aside funds within 24 months of receiving the funds for operating expenses, and

WHEREAS, the City of Modesto received two proposals from certified CHDOs in response to the Request for Proposal submitted on June 11, 2010. STANCO requested $110,000 for one year of expenses and Habitat for Humanity, Stanislaus, requested $120,000 for two years of operating expenses, and

WHEREAS, staff has recommended STANCO receive a CHDO operating allocation in the amount of $90,000, and Habitat for Humanity receive an allocation in the amount of $41,533, and

WHEREAS, the Citizens Housing & Community Development Committee met on July 29, 2010, and approved the funding recommendations for both STANCO and Habitat for Humanity, Stanislaus, to assist with CHDO operating activities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of HOME Community Housing Development Organization operating funds in the amount of $90,000 to STANCO and $41,533 to Habitat for Humanity, Stanislaus.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-365

A RESOLUTION ACCEPTING THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF $300,000 FROM THE OFFICE OF TRAFFIC SAFETY TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND MOTORCYCLE COLLISIONS/VIOLATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Selective Traffic Enforcement Program (STEP) grant from the Office of Traffic Safety (OTS), and

WHEREAS, the Police Department was awarded a grant in the sum of $300,000 from OTS, and

WHEREAS, acceptance of said $300,000 grant will increase enforcement for speed, DUI, and motorcycle collisions/violations, while also reducing collisions with speed, DUI, and failure to yield violations, and

WHEREAS, OTS will pay 100% of the salary for an existing full-time Traffic Unit Community Services Officer (CSO), overtime for officers, and equipment to assist in traffic studies and other traffic related enforcement/investigation equipment, and

WHEREAS, the term of this grant will be from October 1, 2010, through September 30, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Selective Traffic Enforcement Program Grant in the amount of $300,000 from the Office of Traffic Safety to increase enforcement for speed, DUI, and motorcycle collisions/violations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary award documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-366

A RESOLUTION AMENDING THE FISCAL YEAR 2010/2011 OPERATING AND MULTI-YEAR GRANT BUDGET TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF $300,000 RELATED TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND MOTORCYCLE COLLISIONS/VIOLATIONS

WHEREAS, the Police Department acquired a grant award in the amount of $300,000 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and motorcycle collisions/violations, and

WHEREAS, the grant will pay 100% of the salary for an existing full-time Traffic Unit Community Services Officer (CSO), overtime for officers, and equipment to assist in traffic studies and other traffic related enforcement/investigation equipment, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from October 1, 2010, through September 30, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010/2011 Operating and Multi-Year Budget is hereby adjusted as indicated on budget adjustment **attached**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No: 572-9518
Department: Police Department

Council Action Date:
Resolution Number:

FY: 10-11

Fund Title: 0410 - Reimbursed Grants

Transfer No:

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
MY-0410-190-2106-3490			$300,000	$300,000	State Grants
APPROPRIATIONS					
FROM					
TO					
MY-0410-190-2106-0181	2106-A		$52,680		Salary for CSO for 12 months
MY-0410-190-2106-0191	2106-A		$20,071		Benefits for CSO
MY-0410-190-2106-0130	2106-A		$115,000		Overtime
MY-0410-190-2106-0155	2106-A		$1,668		Overtime Benefits
MY-0410-190-2106-0205	2106-C		$2,000		Educational Materials, Printing Duplication
MY-0410-190-2106-0207	2106-C		$4,000		Required Conferences
MY-0410-190-2106-0308	2106-C		$6,581		Checkpoint supplies, Accelerometer, and motorcycle lights
MY-0410-190-2106-0356	2106-C		$28,000		Lidar and Radar Units
MY-0410-190-2106-5000	2106-C		$70,000		DUI Trailer and Changeable Message Sign Trailers
			$300,000		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget amendment is being made to: 1) Recognize Office of Traffic Safety Grant (State) revenue in the amount of $300,000 to the Modesto Police Department and, 2) To program offsetting expenses as outlined in the grant program document. These actions will establish a new multi-year operating budget beginning in FY 2010-11.

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		
DIVISION CAPTAIN		
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)		

TRANSFER NO _____

BY _____ DATE _____

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-367

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOLS IN AN AMOUNT NOT TO EXCEED $448,000 FOR THE SERVICES OF FOUR MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES AT 12 SCHOOL SITES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Modesto City Schools (MCS) would like to have the services of four Modesto police officers to provide prevention, intervention, and enforcement services to students, their families and staff at the following schools: Beyer, Davis, Downey, Johansen, Modesto, Enochs, Elliott, and Gregori High Schools, and Hanshaw, Mark Twain, Roosevelt and LaLoma, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide campus supervisor training, in-services, and consultations with site staff and District administrators, and

WHEREAS, the police officers can act as liaisons between the Modesto Police Department and MCS, and

WHEREAS, the police officers can direct law enforcement action at the district school sites, if warranted, and

WHEREAS, the police officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this Agreement is July 1, 2010, to June 30, 2011, and

WHEREAS, the City shall be compensated by Modesto City Schools in an amount not to exceed $448,000 for the services of four Modesto police officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Modesto City Schools in an amount not to exceed $448,000 for the services of four Modesto Police Officers/School Resource Officers to provide direct law enforcement services at 12 school sites.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-368

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 AIRPORT OPERATING BUDGET TO FULLY FUND THE SOLE SOURCE PURCHASE OF AN AIRCRAFT BOARDING RAMP FROM KEITH CONSOLIDATED INDUSTRIES, INC. OF WHITE CITY, OREGON

WHEREAS, certain budgetary transactions are necessary in the amount of $40,000, to fully fund the sole source purchase of an aircraft boarding ramp from Keith Consolidates Industries of White City, Oregon, and

WHEREAS, the Fiscal Year 2010-2011 Airport Operating budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Airport Operating budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

EXHIBIT A

Contact Person: [illegible] — Acct. Clerk II (x6510)
Telephone No: 7855 — Request No: 06
Department: Public Works

FY: 10-11

Date Rec'd: 6/30/10 Airport Operations — Date Appr'd: 7/1

Fund/Acct/OE/Object	Appr Type	Current Budget	Increase (Decrease)	Revised Budget	Description of Project
DEPARTMENTAL REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM					
11-6310-800-8004-8003			($10,000)	($10,000)	Airport Reserves
TO					
11-6310-880-8415-56003	8415	$50,000	$10,000	$60,000	Non-CIP Fixed Equipment - Aircraft Ramp
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This adjustment is to increase the FY 2010-11 Airport Operating Budget in the amount of $10,000 from Airport Reserves for the purchase of an aircraft boarding ramp that was not included in the current budget. Some of the charter aircraft types do not have internal stairs and the Airport is responsible for providing passenger boarding equipment. The new portable ramp will be used by passengers exiting/entering aircraft that are normally unparked on aircraft.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR		
DEPARTMENT DIRECTOR (Public Works)	[signature]	7/2/10
DEPARTMENT DIRECTOR		
DIRECTOR OF FINANCE		
CITY MANAGER		

TRANSFER NO.

BY: DATE:

PW AT w interfund Template 7-26-06

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-369

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH CONSOLIDATED CM INC. FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT FOR PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT FOR AN AMOUNT NOT TO EXCEED $27,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, on May 6, 2008, by Resolution No. 2008-262, Council approved an Agreement with Consolidated CM Inc. (CCM) for construction management and inspection services for Phase 1A Tertiary Wastewater Treatment project, and

WHEREAS, on July 14, 2009, by Resolution No. 2009-336, Council approved an amendment to this Agreement for additional tasks related to construction management and inspection services for Phase 1A Tertiary Wastewater Treatment project, and

WHEREAS, the City has identified additional scope and services not included in the original agreement necessary to complete the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, CCM has submitted an additional scope of services and fee proposal to complete the Phase 1A Project, and

WHEREAS, this second amendment is recommended to cover the following additional tasks that are not included in the original scope: 1) Construction Administration; and 2) Post Construction, and

WHEREAS, the total estimated cost to complete these additional tasks is $27,500, and

WHEREAS, due to the complexity and amount of staff hours to support the construction management for the project, City staff recommends approving a second amendment to agreement with CCM for the additional work related to the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, City staff recommends approving a second amendment to agreement with CCM as the City does not have the staffing level or subject matter expertise to provide the substantial construction management and inspection support, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to agreement with Consolidated CM Inc. for the Phase 1A Tertiary Wastewater Treatment project in an amount not to exceed $27,500 for the additional scope of services not included in the original agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-370

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR ADDITIONAL SERVICES RELATED TO THE WATER SYSTEM ENGINEER'S REPORT, IN AN AMOUNT NOT TO EXCEED $18,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, on October 23, 2007, by Resolution No. 2007-614, the City Council approved an agreement with West Yost Associates, Inc. (WYA) for professional services to develop a Water System Engineer's Report to support a subsequent water rate and capacity charges study (conducted by another firm), and

WHEREAS, on August 11, 2009, by Resolution No. 2009-395, the City Council approved an amendment with WYA for additional services related to the original agreement, and

WHEREAS, WYA has incurred additional costs beyond those anticipated in the original and first amendment scopes of work primarily due to the City's need for ongoing services to address the significant changes in the economic climate which resulted in delays to the project schedule, and

WHEREAS, generally, the additional work by the consultant includes: the preparation of additional project documentation; more meetings and increased management oversight; and the development of additional CIP budget scenarios to reflect the changed economic climate, and

WHEREAS, this second amendment is recommended to cover the following additional tasks that are not included in the original agreement or first amendment scopes of work: 1) Task 5: Prepare Prop 218-Compliant Engineer's Report for Option A

and Option B; 2) Task 7: Project Management, Meeting & QA/QC; and 3) Task 9: Provide On-call Engineering Services, and

WHEREAS, the total estimated cost to complete these additional tasks is $18,500, and

WHEREAS, City staff recommends approving a second amendment to agreement with WYA as the City does not have the staffing level or subject matter expertise to provide the services related to completing the Water System Engineer's Report, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to agreement with West Yost Associates, Inc. for additional services related to completing the Water System Engineer's Report in an amount not to exceed $18,500 for the additional scope of services not included in the original agreement or first amendment.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-371

A RESOLUTION ACCEPTING THE WORK BY FERMIN SIERRA CONSTRUCTION, INC. FOR THE 2009 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $490,105

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the 2009 Sanitary Sewer Collection System Replacement Project has been completed by Fermin Sierra Construction, Inc. in accordance with the contract agreement dated September 22, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2009 Sanitary Sewer Collection System Replacement Project" is hereby accepted as complete from said contractor Fermin Sierra Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $490,105 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-372

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $1,017,981 IN REGIONAL SURFACE TRANSPORTATION PROGRAM FUNDS FOR THE NEW BUS MAINTENANCE FACILITY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA for the new Bus Maintenance Facility Project (Project), and

WHEREAS, the Project is eligible to receive up to 80% ($13.5 million) of its federally reimbursable expenses from Regional Surface Transportation Program (RSTP) funds, and

WHEREAS, the Project is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a grant application to the Federal Transit Administration for $1,017,981 in Regional Surface Transportation funds for the New Bus Maintenance Facility.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-373

APPOINTING A COUNCIL SUBCOMMITTEE TO CONDUCT THE APPLICATION AND INTERVIEW PROCESS FOR RECOMMENDATION OF TOP CANDIDATES TO THE COUNCIL FOR FINAL INTERVIEW AND APPOINTMENT

WHEREAS, on August 6, 2010, Councilmember Kristin Olsen announced that she would be resigning from office effective November 2, 2010.

WHEREAS, Section 702 of the City Charter provides if a vacancy shall occur in the Office of the Mayor or Councilmember, the Council shall forthwith appoint a person to fill such vacancy. Said appointee shall possess such qualifications for eligibility as are set forth in Section 701 of this article and shall hold office until a successor is duly elected and qualified. Such successor shall be chosen at the next regular municipal election or as otherwise may be required by recall proceedings involving the office of Mayor or a Councilmember. In the event that the Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have become vacation, it shall forthwith cause an election to be held to fill such vacancy, and

WHEREAS, as a charter city, the City Charter provisions calling for a successor to be elected at the next regularly scheduled municipal election following the date when the Council seat was vacant would govern how long the Council appointee would serve. The next regularly scheduled general municipal election following Councilmember Olsen's resignation on November 3, 2010 would be November 1, 2011, and

WHEREAS, appointment of an interim Councilmember would require a vote by the majority of the Council and the appointment and installation of the Councilmember would have to be made no later than 30 days after the resignation or December 4, 2010.

The appointed interim Councilmember would then hold office until a successor was elected in November 2011, and

WHEREAS, since Councilmember Olsen's resignation will not be effective until November 4, 2010, this affords the Council time to undertake the application and interview process and enable the public to be involved as much as possible in the selection process, and

WHEREAS, the council desires to proceed with appointment of a council subcommittee to solicit applications form Council District 5 eligible candidates, conduct interviews in meetings which are governed by the Brown Act and open to the public, and thereafter make a recommendation of the top candidates to the entire Council for consideration and appointment by resolution of an interim Councilmember at the Council meeting of November 9, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

The following Councilmembers are hereby appointed to the Council Candidate subcommittee:

1. Councilmember Dave Geer
2. Councilmember Brad Hawn
3. Councilmember Joe Muratore

The subcommittee shall conduct the application and interview process for the purpose of making a recommendation of top candidates to the Council for final interview and appointment at the Council meeting of November 9, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-374

RESOLUTION APPROVING PARTICIPATION IN A COMPACT, KNOWN AS SMART VALLEY PLACES, FOR SUBMITTAL OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, IN THE AMOUNT OF $5,000,000 FROM THE SUSTAINABLE COMMUNITIES PLANNING GRANT PROGRAM, AND COMMITTING STAFF TIME THE EQUIVALENT OF APPROXIMATELY $60,000 TO DEVOTE TO GRANT ELIGIBLE WORK

WHEREAS, the existing and future problems facing cities in the San Joaquin Valley region are serious, well-documented and include traffic congestion, high unemployment, lack of educational attainment, high poverty levels, housing issues, health concerns, pollution of the environment, and slow economic growth, and

WHEREAS, a direct partnership and Compact among San Joaquin Valley cities is a practical and necessary approach, and the best and most effective way to create a pool of resources, templates, models and technical expertise (such as advanced GIS-based tools, General Plan elements, development codes, and community education and leadership) that will lead to measurable implementation of positive change in the trends listed above by promoting and facilitating long-term enhanced sustainability, and

WHEREAS, the partner cities of Clovis, Delano, Fresno, Hanford, Madera, Merced, Modesto, Porterville, Stockton, Tracy, Tulare, Turlock and Visalia have identified a consensus at the staff level to form a long-term Compact known as Smart Valley Places for the purpose of creating a more sustainable San Joaquin Valley through immediate and on-going aggressive pursuit, acquisition and sharing of, and mutual accountability for, regional planning grant funding opportunities, and

WHEREAS, it is acknowledged by the partner cities listed above that in order to achieve broad-based positive results, the Smart Valley Places membership must be broadened over time to include other partner cities and technical resource agencies throughout the Valley, and

WHEREAS, the City of Modesto intends to locally promote the fundamental values included within the Smart Valley Places Compact by embracing smart growth and sustainability principles, and social and environmental justice for all citizens and residents, in order to facilitate the realization of a better San Joaquin Valley, and

WHEREAS, a public meeting was held on August 10th, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place Modesto's participation in the Smart Valley Places Compact was considered by the Modesto City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Modesto's participation in the Smart Valley Places Compact for submittal of a grant application to the U.S. Department of Housing & Urban Development, in the amount of $5,000,000, from the Sustainable Communities Planning Grant Program, and committing staff time the equivalent of approximately $60,000 to devote to grant eligible work.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents, agreements, MOUs and other documentation needed to carry out the business of Smart Valley Places 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 10th day of August, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-375

RESOLUTION AUTHORIZING THE CITY'S JOINT APPLICATIONS WITH OTHER CITIES IN STANISLAUS COUNTY, THE COUNTY OF STANISLAUS, AND THE STANISLAUS COUNCIL OF GOVERNMENTS FOR PROPOSITION 84 GRANT FUNDING

WHEREAS, the people of the State of California approved Proposition 84 in 2006, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, which also authorized the Legislature to appropriate $90 million for planning grants and incentives to reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits, and

WHEREAS, the California Strategic Growth Council has the authority to award grants of financial assistance for the development and implementation of plans that reduce greenhouse gas emissions and achieve other specified public objectives, and

WHEREAS, the City of Modesto intends to participate in a Proposition 84 grant application being prepared by County staff with Stanislaus County as the applicant to assist in updating general plans, community plans, specific plans; revise development code; prepare corridor studies; develop energy and water efficiency, conservation, and innovation programs; engage the community in developing smart growth programs; and coordinate implementation strategies and capacity building, which will allow Stanislaus County agencies to have greater influence over future development patterns that are consistent with both the San Joaquin Valley Blueprint and the greenhouse gas reduction goals of AB 32 and SB 375, and

WHEREAS, the City of Modesto intends to participate in a Proposition 84 grant application being prepared in conjunction with the planning staff of other cities in Stanislaus County and the County of Stanislaus, with the Stanislaus Council of Governments as the applicant, to establish a centralized, web-based, integrated land use and transportation greenhouse gas modeling tool that will allow the cities and County to evaluate the air quality and greenhouse gas impacts of development projects and specific/master plans and allow the public agencies in Stanislaus County to make meaningful individual decisions about new growth while achieving the State's greenhouse gas reduction goals, and

WHEREAS, the City of Modesto intends to participate in a Proposition 84 grant application being prepared in conjunction with the planning staff of other cities in Stanislaus County and Stanislaus County, to assist in updating general plans, community plans, specific plans; revise/update development codes; prepare corridor studies; develop energy and water efficiency, conservation, and innovation programs; engage the community in developing smart growth programs; and coordinate implementation strategies and capacity building, and

WHEREAS, the City of Modesto intends to participate in a Proposition 84 grant application being prepared in conjunction with the planning staff of the cities of Riverbank and Oakdale and the Local Government Commission, the purpose of which would be to conduct planning along the SR108 corridor that can include form-based coding, low-impact development standards, infill development/redevelopment scenarios, complete streets, and multi-modal connectivity of the circulation system for all modes within and among Modesto, Riverbank and Oakdale, and

WHEREAS, the grants for Proposition 84 funds impose certain obligations on the City of Modesto, such as invoicing, reporting, and timely completion, and

WHEREAS, the City intends to leverage grant funds with in-lieu staff time, and

WHEREAS, a public meeting was held on August 10, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time two grant applications in conjunction with other public agencies in Stanislaus County were considered by the Council of the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the participation of the City of Modesto in joint applications to the California Strategic Growth Council for Proposition 84 grant funding.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the reports and other documents required for awarding a grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the California Strategic Growth Council, the Stanislaus Council of Governments, the County of Stanislaus, or any of the cities in Stanislaus County 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 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-376

RESOLUTION INCREASING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE "STREET IMPROVEMENTS ON THE WEST SIDE OF CONANT AVENUE FROM RUMBLE ROAD TO EICHER AVENUE" PROJECT BY $77,484 FROM 10% ($23,177.04) TO 43% ($100,661.04) OF THE ORIGINAL CONTRACT PRICE WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION, TO FUND THE CHANGE ORDER WORK

WHEREAS, the City Council, on March 23, 2010, by Resolution No. 2010-123, awarded a $231,770.04 contract to A. Teichert & Son, Inc., dba Teichert Construction, for the Street Improvements on the West Side of Conant Avenue from Rumble Road to Eicher Avenue, and

WHEREAS, during the course of construction, the water level was discovered to be shallower than anticipated and the designed drainage system would not be adequate, and

WHEREAS, the additional cost of $77,484 includes the installation of a redesigned drainage system that will be adequate for the shallow water depth in this area, and

WHEREAS, the Director of Utility Planning and Projects currently has the authority to approve change orders up to a cumulative amount of $23,177.04, and

WHEREAS, due to the anticipated change orders related to the project to install the redesigned drainage system, staff is requesting Council approval to increase the Director's Change Order Authority from 10% ($23,177.04) to 43% ($100,661.04),

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Director of Utility Planning and Projects' authority to issue change orders on the Street Improvements on the West Side of Conant Avenue

from Rumble Road to Eicher Avenue project by $77,484 from 10% ($23,177.04) to 43% ($100,661.04) of the original contract price with A. Teichert & Son, Inc., dba Teichert Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of August, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-377

RESOLUTION APPOINTING RON LIGHTEN, SR. AS A MEMBER AND PAMELA O'BRIEN AS ALTERNATE MEMBER TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appointment members to various Boards and Commission, and

WHEREAS, the Safety & Communities Committee met on August 25, 2010 and recommended appointment of Ron Lighten, Sr., as a Member and Pamela O'Brien as Alternate Member to the Entertainment Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Ron Lighten, Sr, as a Member (with a term expiration of January 1, 2011) and Pamela O'Brien (with a term expiration of January 1, 2011).

SECTION 2. The City Clerk is hereby directed to transmit a copy of this Resolution to the appointed Member and Alternate Member of the Entertainment Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-378

RESOLUTION APPOINTING JULIUS MANRIQUE AS A MEMBER TO THE CITY OF MODESTO LANDMARK PRESERVATION 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 9, 2010, and recommended appointment of Julius Manrique to the Landmark Preservation Committee,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Julius Manrique is hereby appointed as a Member to the Landmark Preservation Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Landmark Preservation Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-379

RESOLUTION APPOINTING BARRETT LIPOMI AS A MEMBER TO THE CITY OF MODESTO LANDMARK PRESERVATION 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 9, 2010, and recommended appointment of Barrett Lipomi to the Landmark Preservation Committee,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Barrett Lipomi is hereby appointed as a Member to the Landmark Preservation Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Landmark Preservation Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-380

RESOLUTION APPOINTING KARLHA ARIAS AS A MEMBER OF THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE REPRESENTING THE CITY OF MODESTO

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 9, 2010, and recommended appointment of Karlha Arias 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. Karlha Arias is hereby appointed as a member of the Tuolumne River Regional Park Citizens Advisory Committee representing the City of Modesto, with a term expiration of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-381

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND AARON READ & ASSOCIATES FOR STATE LOBBYING SERVICES, FOR AN AMOUNT NOT TO EXCEED $20,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 1, 2001, the City entered into an Agreement with Aaron Read & Associates (ARA) to perform legislative advocacy in Sacramento, and

WHEREAS, ARA has provided key and critical advocacy for the City since January 2001, and

WHEREAS, staff recommends that the City of Modesto execute an agreement with Aaron Read & Associates for state lobbying services, in an amount not to exceed $20,000, in Fiscal Year 20010/11, and

WHEREAS, on June 22, 2010, the City Council approved a Fiscal Year 20010/11 General Fund operating budget which included funding for said contract,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Aaron Read & Associates for state lobbying services, in an amount not to exceed $20,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-382

RESOLUTION AMENDING THE FISCAL YEARS 2009-2010 AND 2010-2011 ANNUAL OPERATING BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Years 2009-2010 and 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Years 2009-2010 and 2010-2011 budgets have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

The following budget adjustments relate to FY 2009/10:

CITY CLERK

An adjustment is necessary to lower the amount being transferred to the Elections Fund (0351) from the General Fund (0100) in FY 2009/10 by $200,000. The lower amount being transferred is a result of a decrease in expenses by the Election Fund in FY 2009/10. Any remaining fund balance will be returned to the General Fund in FY 2010/11 as part of the dissolution of the Elections Fund.

FIRE

On September 26, 2006 the City Council approved a loan between the Fire Department and Fleet Fund (Resolution 2006-608). An adjustment is necessary to create a loan payment transfer in FY 2009/10 from the Fire Department in the General Fund to the Fleet Fund for the final payment on a heavy rescue vehicle. This loan payment is possible due to discretionary savings within the Fire Department in FY 2009/10.

PARKS, RECREATION AND NEIGHBORHOODS

An adjustment is necessary to reduce appropriations by $346 in Capital Improvement Project P502, Monterosso Trailhead to close the project and reduce the transfer from the Parks Capital Facilities Fund to the Capital Grants Parks Fund in the amount of $346.

An adjustment is necessary to appropriate funds from the Green Waste Diversion Fund (0370) Reserves in the amount of $65,000 for unbudgeted salary expense in FY 2009/10.

An adjustment is necessary to recognize $17,450 in Entertainment Permits and Fees revenue and appropriate it to Service Credit expense for staff support of the Entertainment Commission program in the General Fund (0100) for FY 2009/10.

An adjustment is necessary to reduce the FY 2009/10 budgeted transfer from the General Fund (0100) to the Building Services Fund (7800) from $23,000 to zero. The transfer was originally intended to offset the amount the Building Services Fund (7800) would repay to the 10th Street JPA Fund (8500) for a prior year fund split. However, the amount needed for the 10th Street JPA Fund (8500) and the manner of payment changed (Resolution 2010-250) and this transfer is no longer necessary.

An adjustment is necessary to appropriate $125,000 from the Solid Waste Fund (6290) Reserves for the purchase of a used front end loader in FY 2009/10. The total purchase price is $165,000 and purchasing used equipment will save considerable cost in the purchase price and interest expense.

An adjustment is necessary to create a transfer from the Fleet Fund (7210) to the Green Waste Diversion Fleet Replacement Fund (0379) in the amount of $91,677 in FY 2009/10. This transfer should have been created when the other Fleet equipment replacement funds were created but it was overlooked.

An adjustment is necessary to increase the transfer in FY 2009/10 from the LTF Non-Motorized Fund (0520) to the Capital Grant Fund (2300) for the PR&N CIP project Virginia Corridor Phase V (P365) by $8,794 and appropriate the increase to Construction expense in the project. On May 25, 2010, the City Council approved the Local Transportation Non-Transit FY 2008/09 supplemental claim that requested funds for Virginia Corridor Phase V.

FINANCE

An adjustment is necessary to reduce the transfer from General Fund (0100) and RDA Fund (9020) to the Public Finance Authority Fund (9450) in the amount of $59,441 and $14,889 respectively and reduce debt service expense in the Public Finance Authority Fund (9450) by $74,330 in FY 2009/10. The actual debt service expense was less than budgeted for FY 2009/10.

An adjustment is necessary to increase the expense budget for the County Property Tax Administration expense from the General Fund reserves. A letter received from the County in April, 2010, indicated the expense would increase $54,000 over the budgeted amount and stated that the while the total gross administration costs had decreased by $221,000 from the prior year's expense, the reduction in expense was not sufficient to offset the $671,000 decrease in revenue.

An adjustment is necessary to decrease the budgeted transfer from the Special Fund for Capital Outlay (1300) to the Parking Fund (6000) by $59,046 and create a $99,833 transfer from the General Fund (0100) to the Special Fund for Capital Outlay (1300). These transfer adjustments will allow the Special Fund for Capital Outlay (1300) to meet its current FY 2009/10 expense obligations.

PUBLIC WORKS/UTILITY PLANNING & PROJECTS

An adjustment is necessary to decrease the FY 2009/10 budget for County Airport Tax revenue of $244,266 by $39,266 to $205,000 in the Airport Special Revenue Fund (6330). This funding comes from the County's share of property taxes that they pass on to the City for operating the airport and the amount has been confirmed with the County.

An adjustment is necessary to recognize $3,109,652 for Prop 1B – Phase II revenue and $1,776,000 for Prop 42 – Traffic Congestion Relief revenue received but not previously budgeted in the FY 2009/10 budget for the Prop 1B Sub Fund (0710) and the Prop 42 Sub Fund (0720) respectively. The revenue will be held in the sub funds until the Surface Transportation Fund (0700) need the funding with the Prop 1B funding being spent by 06/30/13 and the Prop 42 funding spent by 6/30/11.

An adjustment is necessary to create a $1,387,263 transfer from the Water Fund (6100) and a $646,094 transfer from the Water Developer Fee Fund (6101) to the Water CIP Fund (6180) for FY 2009/10 eligible expenses. The Water CIP Fund (6180) receives annual reimbursement from the Water Fund 6100) and the Water Developer Fee Fund (6101) for expenses incurred from various capital improvement projects.

The following budget adjustments relate to FY 2010/11:

PUBLIC WORKS/UTILITY PLANNING & PROJECTS

An adjustment is necessary to decrease the FY 2010/11 budget for County Airport Tax revenue of $244,266 by $39,266 to $205,000 in the Airport Special Revenue Fund (6330). This funding comes from the County's share of property taxes that they pass on to the City for operating the airport and the amount has been confirmed with the County.

FINANCE

An adjustment is necessary to decrease the FY 2010/11 Internal Service Fund revenue by $34 for the Central Services – Mail Fund (7120). Parks, Recreation and Neighborhoods in the General Fund (0100) and Fleet in the Bus Fixed Route Max Operations Fund (6540) reduced their Mail Services ISF charges as a result of program reductions accepted as a part of the adopted budget.

An adjustment is necessary to decrease the Cost Allocation revenue in the General Fund (0100) by $63,797 and decrease the Cost Allocation expense in the Water Fund (6100) by $24,881, in the Wastewater Fund (6210) by $19,777 and in the Storm Drainage Fund (6280) by $19,139 for FY 2010/11. Reductions for service credit agreement between Finance in the General Fund (0100) and the Water Fund (6100), Wastewater Fund (6210) and the Storm Drainage Fund (6280) were not deducted from the Cost Allocation Plan charges to those funds.

An adjustment is necessary to reduce the salary and benefit expense by $64,253 in the 10th Street JPA Fund (8500) in FY 2010/11 and eliminate one Building Maintenance Mechanic position. Administration of the 10th Street JPA transitioned to the County for FY 2010/11 and this position remained in the City of Modesto budget in error.

CITY CLERK

An adjustment is necessary to increase the adopted budgeted transfer from the Elections Fund (0351) to the General Fund (0100) by $1,853 in FY 2010/11. The Elections Fund (0351) had greater savings than anticipated in FY 2009/10 and because the fund is being dissolved in FY 10/11 a greater amount will be returned to the General Fund.

CITY ATTORNEY

An adjustment is necessary to increase the adopted budgeted transfer from the Litigation Fund (0350) to the General Fund (0100) by $33,450in FY 2010/11. The Litigation Fund (0350) had greater savings than anticipated in FY 2009/10 and because the fund is being dissolved in FY 10/11 a greater amount will be returned to the General Fund.

PARKS, RECREATION AND NEIGHBORHOODS

An adjustment is necessary to establish a $350,000 loan from the Water Fund (6100) to the General Fund (0100) for the purpose of installing agricultural wells at seven community parks and to establish a $350,000 budget for a capital improvement project (P009) in FY 2010/11. The loan will be repaid over seven years including 1% interest and beginning in FY 2011/12.

This project, including the amounts shown above, was approved by Council on 10/27/09 on Resolution #2009-518.

An adjustment is necessary to increase the JPA Reimbursement revenue by $80,857 and increase Supply expense ($15,500), Insurance expense ($59,909) and decrease Salary and Benefits expense ($5,214) in the Building Services Fund (7800) in FY 2010/11. Beginning in FY 2010/11, Stanislaus County has taken over the financial administration of the 10th Street JPA. There are JPA expenses that will still be paid by the City of Modesto but will then be 100% reimbursed by the County. The Supply and Insurance expense increase are to account for procurement card purchases and 10th Street Place building insurance. The Salary and Benefits decrease is to account for the adopted labor group concessions.

An adjustment is necessary to appropriate $126,297 from Solid Waste Fund (6290) reserves to the Solid Waste Fleet Replacement Fund (6299) for the purchase of three new loaders in FY 2010/11.

An adjustment is necessary to increase the Service Credit revenue by $10,613 in the General Fund (0100) and decrease the Service Credit expense by $30,510, increase Printing & Binding expense by $1,408, increase the Vocation & Recreation Supply expense by $23,880 in the CDBG Fund (1130), decrease the Service Credit expense by $1,305 in the CDBG Direct Program Fund (1131), decrease the Service Credit expense by $1,305 in the Carpenter Road Landfill Fund (0360), decrease the Service Credit expense by $653 in the HOME Program Fund (1170) and increase the Service Credit expense by $6,114 in the Tuolumne River Regional Park Fund (8900). This adjustment amends the adopted Service Credit revenue budget for PR&N and the corresponding expense budgets in other funds due to changes in the service credit agreements after reduction impacts.

INFORMATION TECHNOLOGY

An adjustment is necessary to reduce a budgeted multi-year transfer of $761,759 by $300,000 from the General Fund (0100) to the Information Technology Fund (7130) for the Financial System Upgrade. In FY 2004/05, $300,000 was budgeted and transferred and increased in FY 10/11 by that amount in error.

An adjustment is necessary to increase the Interest expense budget by $57,316 in the Financial Software Upgrade Org (M480) and decrease the Interest expense by $20,391 in the IT ERP Maintenance Org (0756) in the Information Technology Fund (7130) and adjustment the transfers from the other City funds for the project accordingly. Interest expense for the project was originally going to be budgeted on an annual basis but managing the entire cost of the Oracle Financing in the project will capture the full cost of the project.

COMMUNITY AND ECONOMIC DEVELOPMENT

An adjustment is necessary to increase the Service Credit revenue in the General Fund (0100) by $6,228 and increase the Service Credit expense in the Capital Improvement Support Fund (0300) by the same amount in FY 2010/11. These increases are a result of the movement of Org 4312 from UP&P to C&ED and the service credits are for administrative support.

An adjustment is necessary to increase the Service Credit revenue in the General Fund (0100) by $20,512 and increase the Service Credit expense in the Capital Improvement Support Fund (0300) by the same amount in FY 2010/11. These increases are a result of the movement of Org 4312 from UP&P to C&ED and the service credits are for administrative support.

An adjustment is necessary to appropriate carryover expense budget from FY 2009/10 for Services, Professional and Other expense in FY 2010/11 in the amount of $1,148. The expense was not originally budgeted during the FY 2010/11 budget process as they were expected to be fully expended in FY 2009/10.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-383

RESOLUTION APPROVING AN ANNUAL RETAIL ADVERTISING CONTRACT WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, the City's Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies retail contract options which would best meet the City's retail advertising needs, and

WHEREAS, the current retail contract has expired, and

WHEREAS, the City's Purchasing Manager once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew the retail advertising contract for another year, and

WHEREAS, the "non-profit no-commitment" will be at a contract rate of $51.68 per column inch, and

WHEREAS, the Purchasing Manager has determined that a process other than the formal bid procedure will result in a procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in Modesto Municipal Code Section 8-3.204(d), and

WHEREAS, once signed, the advertising contract shall be implemented and tracked by the City's Purchasing Manager, and with the City's Public Information Technician assisting departments with their advertising needs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an annual retail advertising contract with the Modesto Bee (McClatchy Newspaper Group).

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 September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-384

RESOLUTION APPROVING AN AMENDED LETTER OF AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO POLICE OFFICERS ASSOCIATION (MPOA) TO REDUCE THE NEGOTIATED FY 2010-11 MANDATORY FURLOUGH FROM 96 HOURS TO 72 HOURS AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Officers Association (MPOA) expires on March 28, 2011, and

WHEREAS, representatives of the CITY and the MPOA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPOA have reached agreement on a Letter of Agreement (LOA) for a restructured and extended MOU with a new expiration date of July 15, 2013 which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the LOA provides as follows:

SECTION 1. CONTRACT EXTENSION. All terms of the existing MOU are extended except as detailed below.

SECTION 2. TERM OF MEMORANDUM. Extend the end of the current term of the MOU from 12:00 a.m. on March 28, 2011 to 12:00 a.m. on July 15, 2013.

SECTION 3. SALARY. Salary increases shall be deferred as follows:

2.0% effective July 31, 2012

3.0% effective July 2, 2013

SECTION 4. MANDATORY UNPAID FURLOUGHS. Mandatory unpaid furloughs will be taken in FY 2010-11 in the amount of 96 hours, for FY 2011-12 there shall be 72 hours of mandatory unpaid furloughs and for FY 2012-13 96 hours shall be taken as mandatory unpaid furlough.

SECTION 5. SALARY PROGRESSION THROUGH THE STEP RANGES. Progression through step ranges will become temporarily inoperative from the first pay period for FY 2010-11 through the last pay period of FY 2012-13. Therefore, MPOA members will not receive any step increases during this period. Beginning FY 2013-14 progression through step ranges will become operative and employees will move to the next step of the salary range (one step) on the employee's normal anniversary date.

SECTION 6. HEALTH, DENTAL AND VISION INSURANCE. The previously negotiated increases in the City's contribution for Plan Year 2010-11 shall be deferred until January 1, 2013. In January 2011, the City shall increase its monthly contribution to employee only by $25 and for employees with dependent coverage by $50. There will be no increase in the opt out amount.

SECTION 7. RETIREE HEALTH INSURANCE. Section 12 of the MOU shall be amended to include a Defined Contribution Health Reimbursement Account for eligible employees hired on or after January 1, 2011 pursuant to LOA as **attached**.

SECTION 8. REOPENERS.

A) Two tier retirement discussion for new hires: Agreement is required including the process of impasse/arbitration.

B) Meet and discuss regarding current employees converting from current sick leave to retiree medical trust.

C) Meet and discuss possible additional concession if needed, during term of this contract.

WHEREAS, the Council considered and approved this matter at its meeting of June 22, 2010, and

WHEREAS, SECTION 4. MANDATORY UNPAID FURLOUGHS has been amended from the June 22, 2010 adopted LOA as follows:

Mandatory unpaid furloughs will be taken in FY 2010-11 in the amount of ~~96~~ 72 hours, for FY 2011-12 there shall be 72 hours of mandatory unpaid furloughs and for FY 2012-13 96 hours shall be taken as mandatory unpaid furlough.

WHEREAS, all other provisions of the June 22, 2010 Letter of Agreement remain unchanged in the amended Letter of Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the **attached** amended Letter of Agreement for a restructured and extended Memorandum of Understanding with an expiration date of July 15, 2013 between the City of Modesto and the Modesto Police Officers Association and upon execution of same, a copy of the LOA will be on file in the office of the City Clerk herein incorporated as **Exhibit A**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-385

RESOLUTION TO AMEND THE FY 2010-11 GENERAL FUND OPERATING BUDGET RESULTING FROM AN AMENDED LETTER OF AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO POLICE OFFICERS ASSOCIATION (MPOA)

WHEREAS, the Fiscal Year 2010-11 General Fund operating budget approved by City Council on June 22, 2010, included savings resulting from concessions contained in a Letter of Agreement (LOA) with Modesto Police Officers Association (MPOA) for 96 hours of mandatory unpaid furlough, and

WHEREAS, after budget adoption, it was determined that the MPOA negotiated concessions were more than what was needed to prevent any layoffs of Police Officers in Fiscal Year 2010-11, and

WHEREAS, the LOA has been amended to reduce the 96 hours of mandatory unpaid furlough to 72 hours of mandatory unpaid furlough.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-11 General Fund Operating Budget as shown in **Exhibit A** as a result of the amended LOA between the City and MPOA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Marsh, who moved its adoption, with motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

		Decrease to FY 2010/11 Salary/Benefit Reductions
General Fund (0100):		
0100-190-1901-0184	$	2,647
0100-190-1901-0194	$	930
0100-190-1921-0184	$	7,116
0100-190-1921-0194	$	2,500
0100-190-1924-0184	$	800
0100-190-1924-0194	$	281
0100-190-1941-0184	$	43,733
0100-190-1941-0194	$	15,366
0100-190-1942-0184	$	800
0100-190-1942-0194	$	281
0100-190-1961-0184	$	79,573
0100-190-1961-0194	$	27,958
0100-190-1966-0184	$	12,847
0100-190-1966-0194	$	4,514
Total	**$**	**199,346**
ARRA - Public Safety Fund (0415):		
0415-190-2800-0184	$	9,371
0415-190-2800-0194	$	3,292
Total	**$**	**12,663**
Police Outside Agreements Fund (0420):		
0420-190-2001-0184	$	2,339
0420-190-2001-0194	$	822
Total	**$**	**3,161**
Traffic Offender Fund (0610):		
0610-190-1908-0184	$	3,244
0610-190-1908-0194	$	1,140
Total	**$**	**4,384**
SDEA Fund (8850):		
8850-190-1975-0184	$	1,626
8850-190-1975-0194	$	571
Total	**$**	**2,197**
Grand Total	**$**	**221,751**

EXHIBIT A

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-386

RESOLUTION AUTHORIZING STAFF TO SUBMIT AN APPLICATION TO BECOME A HOST CITY FOR THE NEIGHBORHOODS USA (NUSA) 38TH ANNUAL CONFERENCE ON NEIGHBORHOOD CONCERNS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS

WHEREAS, NUSA has been holding conferences in various Cities for over thirty-eight years, and

WHEREAS, NUSA is seeking a host for its 2013 conference that has the infrastructure and experience in hosting a conference of its size, and

WHERAS, NUSA is seeking a City to host its conference that has strong established neighborhoods, and

WHEREAS, the City of Modesto is experienced in hosting such events and has strong established neighborhoods, and

WHEREAS, NUSA has made their Request for Proposal (RFP) application available for the 38th Annual Conference, and

WHEREAS, the City of Modesto would like to become a "Host City for 38th Annual NUSA Conference in May 2013 and

WHEREAS, the City of Modesto has read the requirements exhibited in NUSAS RFP and agrees to abide by the requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of a RFP application for the City of Modesto to apply to become a "Host City" for the 38th Annual Neighborhoods USA Conference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-387

RESOLUTION APPROVING THE RESTORATION OF THE CITY OF MODESTO ADULT SOFTBALL PROGRAM

WHEREAS, the Fiscal Year 2010-11 General Fund operating budget approved by City Council on June 22, 2010, included the elimination of the adult softball program under City management, and

WHEREAS, since the original recommendation was made staff worked with program staff and the City Manager's office on options which would allow the City to maintain the adult softball program while still realizing General Fund savings, and

WHEREAS, under this alternative proposal, the Recreation Coordinator position would be reduced from 0.75 (30 hours per week) to 0.625 (25 hours per week), and

WHEREAS, as part of the initial savings there will be a reduction from two officials per game to one official during the summer softball league, and

WHEREAS, after the summer softball session officials will be outsourced to a private company, resulting in further cost savings for the City of Modesto, and

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development, and

WHEREAS, the Finance Committee met on August 11, 2010, and reviewed and recommended restoring the Adult Softball Program and offsetting the restoration with other programming changes, and

WHEREAS, a regular meeting was held by the Council on September 7, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto,

California, to consider restoring the Adult Softball Program and offsetting the restoration with other programming changes as outlined on the **attached Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves restoring the Adult Softball Program and offsetting the restoration with other programming changes as outlined in **Exhibit A**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

BUDGET ADJUSTMENT DETAIL
FISCAL YEAR 2010-11 ADULT SOFTBALL PROGRAM

REVENUE:	Account	Amount
Recognize revenue from adult softball fees	0100-370-3713-4072R	109,000
EXPENSE:		
Allocate Recreation Coordinator at 0.625 FTE (salary)	0100-370-3713-0181	30,500
Allocate Recreation Coordinator at 0.625 FTE (benefits)	0100-370-3713-0191	10,680
Allocate funding for contract game officials	0100-370-3713-0235	37,000
Allocate funding for program awards	0100-370-3713-0315	7,000
Allocate funding for printing	0100-370-3713-0205	712
Allocate funding for postage	0100-370-3713-0202	1,386
Allocate funding for ASA membership	0100-370-3713-0401	4,000

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-388

RESOLUTION AMENDING THE FISCAL YEAR 2010/11 GENERAL FUND OPERATING BUDGET TO FULLY FUND THE ADULT SOFTBALL PROGRAM

WHEREAS, the Fiscal Year 2010-11 General Fund operating budget approved by City Council on June 22, 2010, included the elimination of the adult softball program under City management, and

WHEREAS, the Finance Committee met on August 11, 2010, and reviewed and recommended restoring the Adult Softball Program and offsetting the restoration with other programming changes, and

WHEREAS, certain budgetary transactions are necessary in the amount of $109,000 in order to fully fund the adult softball program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010/11 General Fund Operating Budget to restore the adult softball program as shown in the **attached Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

BUDGET ADJUSTMENT DETAIL
FISCAL YEAR 2010-11 ADULT SOFTBALL PROGRAM

REVENUE:	Account	Amount
Recognize revenue from adult softball fees	0100-370-3713-4072R	109,000
EXPENSE:		
Allocate Recreation Coordinator at 0.625 FTE (salary)	0100-370-3713-0181	30,500
Allocate Recreation Coordinator at 0.625 FTE (benefits)	0100-370-3713-0191	10,680
Allocate funding for contract game officials	0100-370-3713-0235	37,000
Allocate funding for program awards	0100-370-3713-0315	7,000
Allocate funding for printing	0100-370-3713-0205	712
Allocate funding for postage	0100-370-3713-0202	1,386
Allocate funding for ASA membership	0100-370-3713-0401	4,000

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-389

RESOLUTION REJECTING ALL BIDS FOR THE VIRGINIA CORRIDOR PHASE V – BRIGGSMORE OVERCROSSING PROJECT, AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT

WHEREAS, the bids received for the Virginia Corridor Phase V - Briggsmore Overcrossing project were opened at 11:00 a.m. on July 20, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, City staff have reviewed all information and have determined it is in the best interest of the City to recommend that all bids be rejected, and

WHEREAS, staff will work with all bidders to make sure their paperwork meets the DBE submission requirements in the Notice to Bidders and Special Provisions for the Virginia Corridor Phase V - Briggsmore Overcrossing project, and

WHEREAS, staff recommends re-advertising the project for the Virginia Corridor Phase V – Briggsmore Overcrossing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all bids received for the Virginia Corridor Phase V - Briggsmore Overcrossing project, opened in the office of the City Clerk on July 20, 2010, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to immediately re-advertise the Virginia Corridor Phase V - Briggsmore Overcrossing project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-390

RESOLUTION APPROVING A THRID AMENDMENT TO THE LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB TO EXTEND THE DEADLINE FOR STADIUM IMPROVEMENTS AT JOHN THURMAN FIELD BY ONE YEAR TO OCTOBER 24, 2011; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THED AMENDMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and

WHEREAS, on October 24, 2006, by Resolution No. 2006-691, the City Council approved a ten-year License Agreement between the City of Modesto and the Modesto Nuts Professional Baseball Club for the lease of John Thurman Field, and

WHEREAS, the License Agreement required the stadium improvements to be completed by October 24, 2009, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-025, the City Council approved a First Amendment to the License Agreement relating to the installation of a new scoreboard at John Thurman Field, and

WHEREAS, on October 28, 2008, by Resolution No. 2008-594, the City Council approved extending the deadline for the stadium improvements to October 24, 2010, and

WHEREAS, the City of Modesto and the Modesto Nuts Professional Baseball Club once again wish to extend the deadline for stadium improvements by one year, to October 24, 2011, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the License Agreement between the City

of Modesto and the Modesto Nuts Professional Baseball Club to extend the deadline for stadium improvements by one year, to October 24, 2011.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-391

RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2010-2011 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA), ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) ENERGY EFFICIENCY PROJECTS IN THE AMOUNT OF $1,972,900

WHEREAS, a budget adjustment in the amount of $1,972,900 is necessary to fully fund the American Recovery and Reinvestment Act (ARRA), Energy Efficiency and Conservation Block Grant (EECBG) energy efficiency projects along with contingency and construction administration, and

WHEREAS, the Fiscal Year 2010-2011 Capital Improvement Program budget must be amended, as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Capital Improvement Program budget, as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Jocelyn Reed
Telephone No.: 7-5492
Prepared By: Annette F. Byrne
Telephone No.: 7-5494
Department: PR & N

Council Action Date:
Resolution Number:
Adjustment to FY: MY
Transfer No.

Fund Title: HVAC Improvements to City Facilities (EECBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN					
FROM					
0390-355-P025-3651	N/A		$279,500	$279,500	ARRA Advanced Grant
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0390-355-P025-6010	P025		$15,000	$15,000	Design Administration
0390-355-P025-6040	P025		$238,000	$238,000	Construction Contract
0390-355-P025-6050	P025		$10,000	$10,000	Construction Administration
0390-355-P025-6060	P025		$16,500	$16,500	Construction Contingency

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The City of Modesto received authorization from the Department of Energy to proceed with its energy effciency projects. The EECBG grant funds will cover energy efficiency capital expenses that would have a positive fiscal impact on various City operations by improving the energy efficiency of City facilities and reducing heating and cooling costs.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization) JK	John G Dr	8/18/10
DEPUTY DIRECTOR (if needed)		
ADMINISTRATIVE SERVICES OFFICER (if needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER
BY DATE

Budget Office Form (Oct 2001) gh

REQUEST FOR BUDGET ADJUSTMENT

Contact Person:	Jocelyn Reed	Council Action Date:	
Telephone No.:	7-5492	Resolution Number:	
Prepared By:	Annette F. Byrne		
Telephone No.:	7-5494	Adjustment to FY:	MY
Department:	PR & N	Transfer No.	

Fund Title: Install faom Roofs on City Buildings (EECBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN					
FROM					
0390-355-P026-3651	N/A		$254,000	$254,000	ARRA Advanced Grant
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0390-355-P026-6010	P026		$10,000	$10,000	Design Administration
0390-355-P026-6040	P026		$218,000	$218,000	Construction Contract
0390-355-P026-6050	P026		$10,000	$10,000	Construction Administration
0390-355-P026-6060	P026		$16,000	$16,000	Construction Contingency

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The City of Modesto received authorization from the Department of Energy to proceed with its energy effciency projects. The EECBG grant funds will cover energy efficiency capital expenses that would have a positive fiscal impact on various City operations by improving the energy efficiency of City facilities and reducing heating and cooling costs.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)	gh John G. K	5/18/10
DEPUTY DIRECTOR (if needed)		
ADMINISTRATIVE SERVICES OFFICER (if needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER _____

BY _____ DATE _____

Budget Office Form (Oct 2001) gh

REQUEST FOR BUDGET ADJUSTMENT

Contact Person:	Jocelyn Reed	Council Action Date:	
Telephone No.:	7-5492	Resolution Number:	
Prepared By:	Annette F. Byrne		
Telephone No.:	7-5494	Adjustment to FY:	MY
Department:	PR & N	Transfer No.	

Fund Title: LED Replacements on Street Lights P034 (EECBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN					
FROM					
0390-355-P034-3651	N/A		$463,000	$463,000	ARRA Advanced Grant
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0390-355-P034-6010	P034		$15,000	$15,000	Design Administration
0390-355-P034-6040	P034		$405,000	$405,000	Construction Contract
0390-355-P034-6050	P034		$20,000	$20,000	Construction Administration
0390-355-P034-6060	P034		$23,000	$23,000	Construction Contingency

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The City of Modesto received authorization from the Department of Energy to proceed with its energy effciency projects. The EECBG grant funds will cover energy efficiency capital expenses that would have a positive fiscal impact on various City operations by improving the energy efficiency of City facilities and reducing heating and cooling costs.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		8/18/10
DEPUTY DIRECTOR (if needed)		
ADMINISTRATIVE SERVICES OFFICER (if needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER _____

BY _____ DATE _____

Budget Office Form (Oct 2001) gh

REQUEST FOR BUDGET ADJUSTMENT

Contact Person:	Jocelyn Reed	Council Action Date:	
Telephone No.:	7-5492	Resolution Number:	
Prepared By:	Annette F. Byrne		
Telephone No.:	7-5494	Adjustment to FY:	MY
Department:	PR & N	Transfer No.	

Fund Title: Install Solar Panels on City Facilities P030 (EECBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN					
FROM					
0390-355-P030-3651	N/A		$950,400	$950,400	ARRA Advanced Grant
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0390-355-P030-6010	P030		$35,810	$35,810	Design Administration
0390-355-P030-6040	P030		$851,090	$851,090	Construction Contract
0390-355-P030-6050	P030		$30,000	$30,000	Construction Administration
0390-355-P030-6060	P030		$33,500	$33,500	Construction Contingency

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The City of Modesto received authorization from the Department of Energy to proceed with its energy effciency projects. The EECBG grant funds will cover energy efficiency capital expenses that would have a positive fiscal impact on various City operations by improving the energy efficiency of City facilties and reducing heating and cooling costs.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		8/18/10
DEPUTY DIRECTOR (if needed)		
ADMINISTRATIVE SERVICES OFFICER (if needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER _____

BY _____ DATE _____

Budget Office Form (Oct 2001) gh

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Jocelyn Reed
Telephone No.: 7-5492
Prepared By: Annette F. Byrne
Telephone No.: 7-5494
Department: PR & N

Council Action Date:
Resolution Number:
Adjustment to FY: MY
Transfer No.

Fund Title: Energy Upgrades at Transportation Center P036 (EECBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN					
FROM					
0390-355-P036-3651	N/A		$26,000	$26,000	ARRA Advanced Grant
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0390-355-P036-6040	P036		$25,000	$25,000	Construction Contract
0390-355-P036-6060	P036		$1,000	$1,000	Construction Contingency

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The City of Modesto received authorization from the Department of Energy to proceed with its energy effciency projects. The EECBG grant funds will cover energy efficiency capital expenses that would have a positive fiscal impact on various City operations by improving the energy efficiency of City faclilties and reducing heating and cooling costs.

AUTHORIZATION	SIGNATURE	DATE
	(Authority levels reflected on back)	
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		8/18/10
DEPUTY DIRECTOR (if needed)		
ADMINISTRATIVE SERVICES OFFICER (if needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER _____
BY _____ DATE _____

Budget Office Form (Oct 2001) gh

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-392

RESOLUTION APPROVING A POLICY TO ASSIST POTENTIAL NEIGHBORHOOD ASSOCIATIONS WITH UP TO $5,000 IN FINANCIAL ASSISTANCE PER ASSOCIATION FOR MISCELLANEOUS SUPPORT ON AN AS-REQUESTED BASIS

WHEREAS, as the Modesto community continues to evolve, more and more areas of the City have expressed an interest in forming more active and engaged Neighborhood Associations, and

WHEREAS, when requests for forming Neighborhood Associations come in, City staff, as well as citizens experienced in the "Neighborhood Association business", provide assistance to these start-up associations, and

WHEREAS, typical assistance includes meeting with the groups, printing and mailing meeting notifications and/or surveys and sponsoring meeting locations at a City-owned park or building by waiving the rental fee resulting in an average costs $3,000 and $5,000 per association, and

WHEREAS, total funding will depend on the number of requests received from Neighborhood Associations within the city limits of Modesto, and

WHEREAS, staff estimates that the total funding request will not exceed $15,000 per year, and

WHEREAS, funding will be allocated from the Parks, Recreation and Neighborhood Department's approved Fiscal Year 2010-11 General Fund budget, and

WHEREAS, on August 11, 2010, the Finance Committee recommended a policy be developed to assist potential Neighborhood Associates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new policy authorizing up to $5,000 in financial assistance be provided per Neighborhood Association on an as-needed basis.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any related documents to complete this action.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED
MAR 2 2 2011
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2011-092

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-393

RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE OCTOBER 1, 2010, INCLUDING FUEL COST, AND RESCINDING RESOLUTION NO. 2010-303

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 quarterly as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated October 1, 2010, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to the Maximum Charges for Garbage Service as **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective October 1, 1010, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2010-303 is hereby rescinded, effective October 1, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "1"
October 1, 2010

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS
Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. Standard container service –

a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **$23.73 per month** regardless of size of container. A fuel component of $1.02 per month is included in the maximum rate for the quarter beginning April 1, 2010 and ending June 30, 2010. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$17.66 per month, and $9.50 per month** for each additional green waste container.

2. 60-gallon container service (grandfathered customers) –

a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$19.92 per month**. A fuel component of $1.02 per month is included in the maximum rate for the quarter beginning April 1, 2010 and ending June 30, 2010. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$17.21 per month.**

3. Fuel Component adjustments - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

DETACHABLE CONTAINERS*
Maximum Monthly Rates

Container Size	Regular Container Maximum Rates					
	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 35.84	$ 61.19	$ 86.51	$ 111.84	$ 137.18	$ 162.52
2 CY	$ 61.19	$ 111.84	$ 162.52	$ 213.19	$ 263.85	$ 314.51
3 CY	$ 86.51	$ 162.52	$ 238.52	$ 314.51	$ 390.53	$ 466.52
4 CY	$111.84	$ 213.19	$ 314.51	$ 415.86	$ 517.19	$ 618.53
5 CY	$137.18	$ 263.85	$ 390.53	$ 517.19	$ 646.87	$ 770.54
6 CY	$162.52	$ 314.51	$ 466.52	$ 618.53	$ 770.54	$ 922.55

Container Size	FORK Participants Container Maximum Rates					
	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 45.89	$ 83.88	$ 121.89	$ 159.89	$ 197.89	$ 235.88
3 CY	$ 64.88	$ 121.89	$ 178.89	$ 235.88	$ 292.90	$ 349.89
4 CY	$ 83.88	$ 159.89	$ 235.88	$ 311.90	$ 387.89	$ 463.90
5 CY	$102.89	$ 197.89	$ 292.90	$ 387.89	$ 485.15	$ 577.91
6 CY	$121.89	$ 235.88	$ 349.89	$ 463.90	$ 577.91	$ 691.91
90-gallon	$ 17.80	$ 35.60	$ 53.39	$ 71.19	$ 88.99	$ 106.79

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.88 per cubic yard per month ($0.20 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning April 1, 2010 and ending June 30, 2010. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. Pick up charge - $220.21 per pick up
2. Rental - $0.85 per day up to 7 day maximum rental
- $3.00 per day for boxes kept 7 or more days without servicing
- $10.00 per day for boxes kept 21 or more days without servicing

3. Disposal charge - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.48 per ton will be added to the disposal charges.

COMPACTORS

Front Loader Type:

Compactor Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$259.53	$ 487.56	$ 715.56	$ 943.53	$1,171.59	$1,399.56
4 CY	$335.52	$ 639.57	$ 943.53	$1,247.58	$1,551.57	$1,855.59
6 CY	$487.56	$ 943.53	$1,399.56	$1,855.59	$2,311.62	$2,767.65

Roll-Off Type:

1. 6 CY to 40 CY	$220.21 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.48 per ton

EXTRA PICKUPS

1. Standard containers or equivalent	$3.50 plus $1.38/container
2. Detachable containers	$12.00 plus $2.75/cubic yard

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
$10.12	$11.00	$12.10	$15.40	$20.24	$25.08	$29.92

NOTATIONS

1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee, a $0.15 per month residential litter abatement fee, and a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $1.48 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.64 per yard/month.
4. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-394

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP, INC. (FCS GROUP) FOR ADDITIONAL SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT OR FIRST AMENDMENT FOR UPDATING THE WATER RATE AND CAPACITY CHARGE STUDY, FOR AN AMOUNT NOT TO EXCEED $42,985, PLUS $4,299 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $47,284, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, on February 5, 2008, by Resolution No. 2008-087, the City Council approved an agreement with FCS Group to conduct the "Update to the Water Rate and Capacity Charge Study", and

WHEREAS, on August 11, 2009, by Resolution No. 2009-396, the City Council approved an amendment with FCS Group for additional services related to the original agreement, and

WHEREAS, FCS Group has incurred additional costs beyond those anticipated in the original and first amendment scopes of work primarily due to the City's need for ongoing services to address the significant changes in the recent economic climate, which resulted in delays to the project schedule, and

WHEREAS, generally, the extra work by the consultant includes: the preparation of additional project documentation; more meetings and increased management oversight; and additional cycles of submitted and reviewed CIP budget/rate scenarios to reflect the changed economic climate, and

WHEREAS, this second amendment is recommended to cover the following additional tasks that are not included in the original agreement or first amendment scopes of work: 1) Task 1: Update Budget Projections and Capital Costs; 2) Task 2:

Update Customer Data and Revised Proposed Water Rates; and 3) Task 3: Fiscal Policy Resolution; 4) Task 4: Scenario Group Analysis; 5)Task 5: Staff Review Sessions (2); 6) Task 6: Development of Draft and Final Report; and 7) Task 7: Public Review Sessions/Workshops (2), and

WHEREAS, the total estimated cost to complete these additional tasks is $42,985, and

WHEREAS, City staff recommends approving a second amendment to agreement with FCS Group as the City does not have the staffing level or subject matter expertise to provide the services related to Updating the Water Rate and Capacity Charge Study, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to agreement with Financial Consulting Solutions Group, Inc. (FCS Group) for additional services related to Updating the Water Rate and Capacity Charge Study in an amount not to exceed $42,985 for the identified additional scope of services not included in the original agreement or first amendment, plus $4,299 for additional services (if needed), for a maximum total amount of $47,284.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-395

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE EFFLUENT PUMP STATION SOIL STABILIZATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH HAYWARD BAKER INC. OF CONCORD, CA IN THE AMOUNT OF $321,077 FOR THE EFFLUENT PUMP STATION SOIL STABILIZATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Effluent Pump Station Soil Stabilization Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Effluent Pump Station Soil Stabilization Project were opened at 11:00 a.m. on August 17, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $321,077 received from Hayward Baker Inc. be accepted as the lowest responsible bid and the contract be awarded to Hayward Baker Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Effluent Pump Station Soil Stabilization Project, accepts the bid of Hayward Baker Inc. of Concord, CA in the amount of $321,077, and awards Hayward Baker Inc. the contract for the Effluent Pump Station Soil Stabilization Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-396

RESOLUTION APPROVING THE SUBMISSION OF THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT FOR FISCAL YEAR 2009-2010 TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATED TO THE SUBMISSION OF THE CAPER

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City of Modesto Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2009, through June 30, 2010, 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 30-day period, and

WHEREAS, the CAPER was made available for public review and comment in the Modesto Bee from August 8, 2010, through September 7, 2010, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens' Housing and Community Development Committee met on July 28, 2010, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 7, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Consolidated Annual Performance and Evaluation Report for Fiscal Year 2009-2010, a copy of said report is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to the submission of the CAPER.

BE IT FURTHER RESOLVED that staff is hereby authorized to submit the report to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Hawn, who moved its adoption, with motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-397

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION REQUESTING $1,783,408 IN CONGESTION MANAGEMENT AND AIR QUALITY FUNDS FOR PUBLIC TRANSIT PURPOSES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation-related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA for the Congestion Management and Air Quality (CMAQ) funds, and

WHEREAS, on February 17, 2010, the StanCOG Policy Board awarded the City of Modesto $715,696 in CMAQ funds for the purchase of a replacement commuter bus, and

WHEREAS, on February 17, 2010, the StanCOG Policy Board awarded the City of Modesto $667,712 in CMAQ funds for the purchase of two fixed route buses, and

WHEREAS, on February 17, 2010, the StanCOG Policy Board awarded the City of Modesto $400,000 in CMAQ funds for the operation of expanded services, and

WHEREAS, these CMAQ projects are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration for $1,783,408 in CMAQ funds for public transit purposes.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-398

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE AGREEMENTS FOR THE SOLE SOURCE PROCUREMENT OF VARIOUS HARDWARE AND SOFTWARE MAINTENANCE/SUPPORT AGREEMENTS FROM HARDWARE AND SOFTWARE MANUFACTURES FOR THE INFORMATION TECHNOLOGY DEPARTMENT THROUGHOUT FISCAL YEAR 2010-2011, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $1,053,892

WHEREAS, the City has an ongoing need to issue purchase maintenance contracts/support agreements for hardware and software assets utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for maintenance contracts/support agreements have been approved by Council through the budget process, and

WHEREAS, staff requests the Purchasing Manager be authorized to solicit bids through "sole-source" purchases and informal bid processes for Fiscal Year 2010–2011 for an estimated annual cost not to exceed $1,053,892,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue purchase agreements for the sole source procurement of various hardware and software maintenance/support agreements from hardware and software manufacturers for the Information Technology Department throughout Fiscal Year 2010-2011, for an estimated annual cost not to exceed $1,053,892.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-399

RESOLUTION APPOINTING GARY NELSON AS ALTERNATE MEMBER TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appointment members to various Boards and Commission, and

WHEREAS, the Safety & Communities Committee met on August 25, 2010 and recommended appointment of Gary Nelson as Alternate Member to the Entertainment Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Gary Nelson as Alternate Member (with a term expiration of January 1, 2012).

SECTION 2. The City Clerk is hereby directed to transmit a copy of this Resolution to the appointed Alternate Member of the Entertainment Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-400

RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH THE UNITED STATES GENERAL SERVICES ADMINISTRATION (GSA) FOR OFFICE SPACE AT THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the General Services Administration (GSA) currently leases office space at the Modesto City-County Airport to house the Transportation Security Administration (TSA), and

WHEREAS, the leased office space, located in the Terminal Building, is used by TSA to house its security staff at the airport. GSA is the contracting agency on behalf of the TSA regarding real estate matters, and

WHEREAS, the new proposed Lease Agreement, to become effective no later than March 1, 2011, provides for relocation from the current leased space to a new location in the airport terminal building, and

WHEREAS, this move will free up counter and office space needed for a potential second air service provider, and will provide TSA with an office conveniently located directly across from the passenger screening room, and

WHEREAS, GSA will arrange for modifications to the new office space, agreeable to both parties, at no cost to the airport in order to make it suitable for TSA's use,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Lease Agreement with the United States General Services Administration for office space at the Modesto City-County Airport.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-401

RESOLUTION AUTHORIZING STAFF TO REQUEST THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) TO ADOPT A RATIO OF FARE REVENUE TO OPERATING COST OF 15% FOR THE MODESTO AREA EXPRESS (MAX) AND MODESTO AREA DIAL-A-RIDE (DAR) TRANSIT SERVICES AS A COMBINED SYSTEM

WHEREAS, a significant portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), and

WHEREAS, the TDA requires that each transit system maintain a minimum ratio of fare revenues to operating costs, and

WHEREAS, StanCOG is authorized by the TDA to adopt minimum ratios for the transit systems operating within the Modesto Urbanized Area (UZA), and

WHEREAS, a 20% ratio is currently in effect for the transit systems operating within the Modesto UZA, and

WHEREAS, projections indicate that the transit systems operated by the City of Modesto within the Modesto UZA will not meet the 20% minimum ratio currently in effect, and

WHEREAS, the TDA allows StanCOG to adopt a ratio of 15% for transit systems operating within the Modesto UZA, and

WHEREAS, reducing the required minimum ratio to 15% would preclude the need to increase passenger fares or reduce service,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to request the Stanislaus Council of Governments to adopt a ratio of fare revenue to operating cost of 15% for the Modesto Area Express and Modesto

Area Dial-a-Ride services as a combined system as provided for in the Transportation Development Act.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
Noes:	Councilmembers:	
Absent:	Councilmembers:	

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-402

RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE REMOVAL AND REPAIR OF THE SIEMENS SCREW PUMP #3 FOR THE SUTTER WASTEWATER TREATMENT PLANT, FROM SIEMENS WATER TECHNOLOGIES, THOMASVILLE, GA FOR A TOTAL COST NOT TO EXCEED $259,550

WHEREAS, the Sutter Wastewater Treatment Plant (Sutter TP) utilizes four (4) InternalLift screw pumps to lift untreated sewage from the main trunk lines to the headwork's process, and

WHEREAS, InternaLift pumps are very unique, proprietary designs that utilize an 8-foot diameter, 40-foot long tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, while doing routine maintenance on Screw Pump #3, staff noticed that the bearings needed to be repaired, and

WHEREAS, it is necessary for the screw pump to be removed and sent to the factory for repair in order to have the exact tolerances required for use at the Sutter TP, and

WHEREAS, staff has contacted local companies but none of them have the capability or capacity to perform the required repairs within factory tolerances, and

WHEREAS, if the tolerances are not maintained, premature damage will occur resulting in equipment failure, and

WHEREAS, in addition to the repair cost, a crane will be needed at the Sutter TP to remove the pump at a cost of $25,000, making the total cost for the removal and repair of the Siemens Screw Pump $259,550, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid; however, one exception to the formal bid process, MMC Section 8-3.204(b), states, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement of the removal and repair of the Siemens Screw Pump for the Public Works Department, Water Quality Control Services Division, conforms to the MMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement of the removal and repair of a Siemens Screw Pump #3 for the Sutter Treatment Plant from Siemens Water Technologies, Thomasville, GA.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase order for a total cost not to exceed $259,550.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-403

RESOLUTION AMENDING FISCAL YEAR 2010-11 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET AND AUTHORIZING THE TRANSFER OF $259,550 FROM CIP ACCOUNT 6210-480-B576-6052– RENEWAL/ REPLACEMENT SUTTER TP TO NEW CIP ACCOUNT 6210-480-B193-6070 - SIEMENS SCREW PUMP #3

WHEREAS, the Sutter Treatment Plant utilizes four (4) InternaLift screw pumps in a single wet pit to elevate untreated sewage from the main trunk lines to the headworks process, and

WHEREAS, InternaLift pumps are a very unique, proprietary design that utilize a 8 foot diameter, 40 foot long tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, while doing routine maintenance on Screw Pump #3, staff noticed that the bearings needed to be repaired before failure occurs; and

WHEREAS, it is necessary for the screw pump to be removed and sent to the factory for repair, and

WHEREAS, total costs for the removal and repair of the Siemens Screw Pump will be $259,550,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends Fiscal Year 2010-11 Capital Improvement Program (CIP) Budget and authorizes the transfer of $259,550 from CIP Account 6210-480-B576-6052 – Renewal/ Replacement Sutter to new CIP Account 6210-480-B193-6070 – Siemens Screw Pump #3.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA ~~WOOD~~, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-404

RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSULTANT SERVICES FOR THE 2010 URBAN WATER MANAGEMENT PLAN IN AN AMOUNT NOT TO EXCEED $151,500 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $7,575 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $159,075, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Urban Water Management Planning Act of the California Water Code requires water suppliers in California, providing water for municipal purposes either directly or indirectly to more that 3,000 customers or supplying more that 3,000 acre-feet of water annually, to prepare and adopt an Urban Water Management Plan (UWMP) every five years, which defines their current and future water use, sources of supply and its reliability, and existing conservation measures, and

WHEREAS, this plan is to be filed with the Department of Water Resources (DWR) by July 1, 2011, and

WHEREAS, the City had previously filed UWMPs for 1985, 1990, 1995, 2000 and 2005, and

WHEREAS, this UWMP update will address the new legislative requirements of the Urban Water Management Planning Act, and

WHEREAS, the City of Modesto (City) and the Modesto Irrigation District (MID) are jointly coordinating preparation of the UWMP, and

WHEREAS, the DWR requires each agency to prepare an UWMP due to differing water management objectives, and

WHEREAS, in previous UWMP updates, the DWR has allowed the City and MID to prepare a joint document whereby the City will prepare its UWMP from the

water supplier's perspective while MID will prepare their UWMP from the water wholesaler's perspective with both documents integrated under one cover and submittal to DWR, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, in June 2010, City staff issued Request for Proposals (RFPs) to the six (6) prequalified consulting firms including a local firm from an approved short list specific to the project, and

WHEREAS, three (3) firms responded with submitted proposals by the July 9, 2010 deadline, and

WHEREAS, on July 30, 2010, the three firms were interviewed by a Selection Committee comprised of Utility Planning & Projects Department and MID staff, and

WHEREAS, as a result of the interviews and proposal evaluations, the selection committee determined West Yost Associates, Inc. to be the most qualified to prepare the 2010 Joint UWMP for the City and MID,

WHEREAS, the City and MID will each contribute toward the cost of this project, and

WHEREAS, because MID's component of the 2010 UWMP requires much less effort compared to the City's required sections, MID's contributing cost has been set at 15% ($21,504.74), and

WHEREAS, for the purposes of efficiency and to initiate the project as soon as possible in order to meet the DWR deadline, the City will front the entire cost of the

project and enter into a Letter of Agreement with the MID to reimburse the City for their share of the cost, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with West Yost Associates, Inc. as the City does not have the staffing level or subject matter expertise to complete the 2010 Urban Water Management Plan, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Consultant Services for the 2010 Urban Water Management Plan with West Yost Associates, Inc. for an amount not to exceed $151,500 for the identified scope of services, plus $7,575 for additional services (if needed), for a maximum total amount of $159,075.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-405

RESOLUTION APPROVING A LICENSE AGREEMENT FOR A TERM OF ONE YEAR BETWEEN THE CITY OF MODESTO AND THE BURBANK PARADISE FIRE DISTRICT FOR THE TEMPORARY USE OF FIVE (5) PARKING SPACES ON CITY-OWNED PROPERTY ADJACENT TO 1313 BEVERLY DRIVE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Burbank Paradise Fire District located at 1313 Beverly Drive operates a Fire Protection District serving a 4.5 square mile area in an unincorporated portion of Stanislaus County, and

WHEREAS, the Burbank Paradise Fire District has requested the temporary use of five (5) City-owned parking spaces adjacent to its Fire Station during remodeling and reconstruction of its fire station building to accommodate the use of newer and larger fire equipment, and

WHEREAS, the temporary parking spaces are required by the County of Stanislaus for a building permit for remodeling and reconstruction of the fire station, and

WHEREAS, the City of Modesto has five (5) parking spaces available adjacent to the fire station for temporary use during the reconstruction and is willing to grant such use, and

WHEREAS, a License Agreement between the City and the Fire District is needed for the use of the parking spaces, and

WHEREAS, the Burbank Paradise Fire District Board of Directors passed a resolution authorizing the District to enter into a License Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement for a term of one year between the City of

Modesto and the Burbank Paradise Fire District for the temporary use of five (5) parking spaces on City-owned property adjacent to 1313 Beverly Drive.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-406

A RESOLUTION APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE DEPARTMENT OF WATER RESOURCES UNDER THE LOCAL GROUNDWATER ASSISTANCE (LGA) GRANT PROGRAM IN THE AMOUNT OF $250,000 FOR THE WELL FIELD OPTIMIZATION PROJECT PHASE II; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATED TO THE GRANT, GRANT APPLICATION AND GRANT AGREEMENT

WHEREAS, the cities of Modesto, Riverbank, Oakdale; the Modesto Irrigation District (MID); the Oakdale Irrigation District (OID); and Stanislaus County formed the Stanislaus and Tuolumne River Groundwater Basin Association (STRGBA) to oversee and coordinate groundwater management activities in the Modesto groundwater sub-basin, and

WHEREAS, the STRGBA developed an Integrated Regional Groundwater Management Plan (IRGMP), which was approved by the City Council by Resolution 2005-340 on June 29, 2005, and

WHEREAS, in order to manage groundwater in the Modesto sub-basin, one of the projects outlined in the IRGMP is the Well Field Optimization Project, and

WHEREAS, the City of Modesto has been selected as the local public agency within the STRGBA to submit an application and enter into an agreement with the Department of Water Resources (DWR), and

WHEREAS, the DWR requires that the applicant provide a resolution adopted by the City Council that designates and authorizes a representative to file the application and enter into an agreement with the DWR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a grant application to the Department of Water Resources under the Local Groundwater Assistance (LGA) Grant Program, in the amount of $250,000, for the Well Field Optimization Project Phase II.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to the grant, grant application and grant agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-407

A RESOLUTION ACCEPTING THE WORK BY MOUNTAIN CASCADE, INC. FOR THE "YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION LAS FLORES AVENUE TO PHOENIX AVENUE" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,383,670.72

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue project has been completed by Mountain Cascade, Inc. in accordance with the contract agreement dated January 12, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Yosemite Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue project is hereby accepted as complete from said contractor Mountain Cascade, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $1,383,670.72 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-408

A RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF MODESTO 2010 WATER SYSTEM ENGINEER'S REPORT (SCH # 2008092095, EA/PW #2008-18) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ALONG WITH MAKING CERTAIN FINDINGS REGARDING SIGNIFICANT IMPACTS, FINDINGS SUPPORTING REJECTION OF ALTERNATIVES, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN CONNECTION WITH APPROVAL OF THE PROJECT CONTEMPLATED BY THE FINAL ENVIRONMENTAL IMPACT REPORT

WHEREAS, the City's Utility Planning and Projects Department ("City") on September 22, 2008, published a Notice of Preparation (EA/PW 2008-18) for the Water System Engineer's Report (Project/Program), which identified potentially significant environmental impacts attributable to the some of the improvement projects identified in the Engineer's Report, on which the City determined that an Environmental Impact Report ("EIR") was required for the Program, and

WHEREAS, on September 24, 2008, the City held a public scoping meeting to receive public comments on the scope and content of the Program EIR, and

WHEREAS, the City published and distributed a Draft Program EIR for the 2010 Water System Engineer's Report (SCH#2008092095) for public comment on December 7, 2009, in accordance with Section 15168 of the California Environmental Quality Act ("CEQA Guidelines"), and

WHEREAS, the Draft Program EIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being January 21, 2010, in accordance with Section 21091 of the CEQA Guidelines, and

WHEREAS, during the 45-day public comment period the City received two letters commenting on the Draft Program EIR, and

WHEREAS, the City prepared written responses to all written comments received on the Draft Program EIR, said responses being contained in a Final Program EIR for the 2010 Water System Engineer's Report (SCH#2008092095) ("Final Program EIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final Program EIR was published and distributed on February 10, 2010, and consists of the Draft Program EIR, a list of commenter's, copies of written comments received, and responses to those comments that raise environmental issues (no revisions to the text of the Draft Program EIR being necessary), as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects the lead agency make certain findings regarding those effects, and

WHEREAS, the City Council has received and considered the Final Program EIR) that analyzed the potential environmental effects of the proposed Program,

NOW, THEREFORE BE IT RESOLVED by the City Council that it hereby has reviewed and analyzed the Final Program EIR and other information in the record, and has taken such other actions as are necessary and appropriate to make the following findings in respect to the Final Program EIR, and makes said findings:

1. That the Final Program EIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the Final Program EIR 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 Program EIR and the Program, prior to acting upon or approving the

Program; and that the Final Program EIR represents the independent judgment of the City of Modesto; and

2. That the Findings and recommendations set forth in **Exhibit A**, and incorporated herein by reference, are made by the City Council as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14 § 15000 et seq.) relating to the Program. The Findings provide the written analysis and conclusions of the City Council regarding the Program's environmental impacts and mitigation measures to the Program; and

3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Program and the anticipated economic, social and other benefits of the Program.

   a. Significant Unavoidable Impacts

      With respect to the foregoing findings, as set forth in **Exhibit A**, and in recognition of those facts which are included in the record, the City has determined the following:

      i. that the Program will cause significant, unavoidable impacts to Aesthetics, Agricultural Resources, Noise, Air Quality, and Growth Inducement, as described in **Exhibit B**.

      ii. that the Program will contribute to significant and unavoidable cumulative impacts to Air Quality, Climate Change, and Agricultural Resources, as described in **Exhibit B**.

   These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Program, 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 Program includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Program on the environment, and that the remaining significant, unavoidable impacts of the Program are acceptable in light of the environmental, economic, social, and other considerations set forth herein because the benefits of the Program outweigh the significant and adverse impacts of the Program. The City Council finds that each of the overriding considerations set forth below, and each of the overriding considerations set forth in **Exhibit B**, constitutes a separate and independent ground for finding that the benefits of the Program

outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Program. These matters are supported by evidence in the record.

c. Benefits of the Proposed Program

The City Council has considered the Final Program EIR, the public record of proceedings on the proposed Program and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Program, and does hereby determine that implementation of the Program as specifically provided in the Program documents would result in the substantial public benefits set forth below and in **Exhibit B**.

i. Updated Water Service Forecasts. The Engineer's Report assesses the existing service system with the future water demand based on the projected growth within the contiguous and outlying service areas as projected by updated planning documents. This reflects more accurate information regarding the future conditions of the service area and provides the City better information by which to plan to meet the future demand.

ii. Existing Deficiency Identification. The Engineer's Report identifies deficiencies in the existing storage and capacity of the current water system. It also recommends and justifies the various capital improvements needed to provide and maintain reliable water service to existing and future customers. Implementation of these improvements will ensure that existing and future customers have sufficient water to meet their needs.

iii. Capital Improvement Program. The Engineer's Report includes information needed to implement a Capital Improvement Program (CIP) for system-wide implementation of projects and programs needed to deliver safe and reliable water service to meet demand requirements under both existing and future developed conditions, as mandated by the Urban Management Planning Act (Division 6 Part 2.6 of the Water Code §§10610.2a–b).

iv. Assurance of Funding. By collecting revenues in accordance with State law and the CIP, the program ensures sufficient funding of the construction and maintenance of public infrastructure and services needed to accommodate future demands and also assures the stabilization of City finances in relation to water service.

v. Rate and Capacity Charge Study. One of the end results of the Engineer's Report is that it will be used as a basis for conducting an updated Rate and Capacity Charge Study that will ensure an equitable rate and capacity charge structure for all customers and accurately reflect the cost to provide

the necessary operational services, capital improvements, reserves to meet bonding requirements, debt service coverage, system maintenance, and other financial obligations of the water system.

The City Council has weighed the benefits of the proposed Program against its unavoidable environmental risks and adverse environmental effects identified in the Final Program EIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

4. That the City Council finds that the Final Program EIR describes a range of reasonable alternatives to the program. However, none of the alternatives to the program that were determined to be potentially feasible in the Program EIR will avoid or substantially lessen the significant and unavoidable impacts of the program to a level of insignificance. Further, specific economic, legal, social, technological, or other considerations, make infeasible the alternatives identified in the Program EIR which would reduce these impacts to a level of insignificance. The City Council finds and determines that these significant and unavoidable adverse impacts are acceptable and that the Program may be approved despite these impacts for the reasons specified in the Statement of Overriding Considerations. The City Council further finds that there are no additional feasible alternatives that the City Council could adopt at this time that would reduce the impacts summarized in **Exhibit B** to a less than significant level.

5. The City Council does hereby designate the Director of Utility Planning and Projects Department of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354, as the custodian of documents and the record of proceedings on which the decision is based; and

6. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Program, as identified in the Final Program EIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the Final Program EIR, 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 commenter's to the Draft Program EIR and were not adopted as part of the Final Program EIR are hereby expressly rejected for the reasons stated in the responses to comments set forth in the Final Program EIR and elsewhere in the record.

7. In compliance with the California Environmental Quality Act (CEQA Guidelines Section 15097), if the City Council has made findings required under paragraph (1) of subdivision (a) of Section 15091, where mitigation measures are required to avoid, substantially lessen, or reduce to a less-than-significant level the environmental effects of certain elements of the Project, as identified in the EIR, the lead agency must adopt a Mitigation Monitoring and Reporting Program to

ensure that the Project mitigation measures identified in the EIR are implemented and the party responsible for their implementation is identified.

BE IT FURTHER RESOLVED, by the City Council that it hereby certifies the Final Program Environmental Impact Report for the 2010 Water System Engineer's Report (SCH#2008092095), attached as **Exhibit C1 & C2**, and adopts the associated Mitigation Monitoring and Reporting Program, attached as **Exhibit D**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-409

A RESOLUTION APPROVING AND ADOPTING THE 2010 WATER SYSTEM ENGINEER'S REPORT AS COMPLETE

WHEREAS, on October 23, 2007, by Resolution No. 2007-614, the City Council approved a professional services agreement with West Yost & Associates (WYA) to develop an updated Engineer's Report for a Water Rate and Connection Fee (Capacity Charge) Study, and

WHEREAS, the 2010 Water System Engineer's Report (Engineer's Report) is now complete, and

WHEREAS, the Engineer's Report identifies the proposed water system improvements needed to serve existing and future customers through buildout within the City's Sphere of Influence, and

WHEREAS, deficiencies exist in the City's current water supply, storage, and pipeline system infrastructure, and

WHEREAS, adoption of the Engineer's Report and certification of the accompanying Environmental Impact Report (EIR) is needed now for key water system Capital Improvement Projects to proceed, and

WHEREAS, the main elements of the Engineer's Report include: Updating current and buildout water demands; Identifying and justifying the various capital improvements needed to provide and maintain reliable water service; Developing cost estimates and prioritizing the proposed improvements; Determining the cost allocations of the needed improvements between the existing rate payers and future users, and

WHEREAS, the proposed improvements were developed under the following two parallel analyses: Option 'A' - full participation by the City in the proposed Regional Surface Water Supply Project (RSWSP), along with the Cities of Ceres, Hughson, and Turlock (using Turlock Irrigation District-supplied surface water), and Option 'B' - without participation by the City in the proposed RSWSP, but pump and treat more groundwater by installing new wells and wellhead treatment on currently out-of-service wells, and

WHEREAS, stakeholder workshops were held in December 2009, and February 2010, for comments to the Engineer's Report, and

WHEREAS, the Engineer's Report is the critical supporting document needed to conduct an updated Rate and Capacity Charge Study, and

WHEREAS, adoption does not obligate the City to update rates or capacity charges at this time, and

WHEREAS, this item was reviewed as a consent item for the Finance Committee meeting on August 11, 2010, and a favorable recommendation was made to forward the Engineer's Report to the Council for approval and adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and adopts the updated Water System Engineer's Report dated May 2010, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED
MAY 7 2013
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2013-177

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-410

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2010-272, AND UPDATING THE 2010 CAPITAL FACILITIES FEES PROGRAM TO REDUCE CAPITAL FACILITIES FEES CHARGED ON COMMERCIAL DEVELOPMENT WITHIN THE CITY OF MODESTO REDEVELOPMENT AREA BY FIFTY PERCENT (50%), FOR A PERIOD OF EIGHTEEN MONTHS, OR UNTIL THE LONG-TERM CFF RESTRUCTURING PLAN IS ADOPTED BY THE CITY COUNCIL

WHEREAS, California Government Code Section 66000 et seq., and Modesto Municipal Code Sections 8-1.904 et seq. authorize the City Council, by resolution, to establish a Capital Facilities Fees Program (CFF) for the construction and acquisition of certain public facilities, and

WHEREAS, on June 24, 2003, the City Council, by Resolution No. 2003-309, amended Resolution No. 88-649, as amended, and adopted the 2003 CFF Update Report and on file with the City Clerk for City facilities associated with capital items related to police, fire, parks, transit, streets, air quality, and governmental facilities and, administration of the CFF, and

WHEREAS, on January 24, 2006, the City Council, by Resolution No. 2006-055, amended and restated Resolution No. 2003-309 which increased land values for property acquisition, increased funding available to acquire right of way for expressways, and established the 2006 CFF Program, and

WHEREAS, on June 22, 2010, the City Council, by Resolution No. 2010-272, amended and restated Resolution No. 2006-055 which decreased land values for property acquisition and established the 2010 CFF Program, and

WHEREAS, the fees collected pursuant to this resolution will be used to finance the public capital facilities identified in the 2003 CFF Update Report and some additional

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-411

RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM #2 FOR FISCAL YEAR 2010-2011, IN THE AMOUNT OF $7,864,015, 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 (STA) funds, and

WHEREAS, StanCOG has informed the Finance Department that additional TDA funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Articles 4 and 8 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA Transit Claim #2 for Fiscal Year 2010-2011 pursuant to Articles 4 and 8 of Chapter 4 of the California PUC, and

WHEREAS, the City's TDA Transit Claim #2 for Fiscal Year 2010-2011 is $7,864,015, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2010-2011 is $14,817,463, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves TDA Transit Claim #2 for Fiscal Year 2010-2011 in the amount of $7,864,015.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of September, 2010, by Council member Lopez, who moved its adoption, which motion being duly seconded by Council member Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-412

A RESOLUTION APPROVING THE REAPPOINTMENT OF GEORGE SHARP TO THE DISABLED ACCESS APPEALS BOARD

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the City Council approved, by Resolution Number 2007-391, the appointment of George Sharp to the Disabled Access Appeals Board for the term ending January 1, 2010, and

WHEREAS, George Sharp has expressed interest in continuing to serve as a member of the Disabled Access Appeals Board,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1: George Sharp is hereby reappointed to the Disabled Access Appeals Board with a term expiration of January 1, 2014,

SECTION 2: The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 28th day of September, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-413

A RESOLUTION APPROVING AN AGREEMENT RELATED TO THE RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF $186,260.00, BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE NORTHWEST CORNER OF OAKDALE ROAD AND SYLVAN AVENUE, AND THE SOUTHEAST CORNER OF DALE ROAD AND SNYDER AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (149) - RIGHT TURN LANES (4) INTERSECTIONS PROJECT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (149) – Right Turn Lanes (4) Intersections Project involves the expansion of Oakdale Road and Sylvan Avenue intersection to include a southbound right turn lane and the expansion of Dale Road and Snyder Avenue intersection to include a northbound right turn lane and,

WHEREAS, the City of Modesto desires Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements and,

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders and,

WHEREAS, on March 25th, 2010, Caltrans approved a Categorical Exemption/Categorical Exclusion Document and,

WHEREAS, the project is consistent and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed and,

WHEREAS, the City of Modesto requires an Agreement Related to the Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities and,

WHEREAS, the Right Turn Lanes (4) Intersections Project is eligible for CMAQ funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Related to the Relocation of Electric Utility Poles between the City of Modesto and Modesto Irrigation District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-414

A RESOLUTION APPROVING AN AGREEMENT RELATED TO THE RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF $40,782.76 BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE SOUTHWEST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (167) - RIGHT TURN LANE EASTBOUND (EB) BRIGGSMORE AVENUE TO SOUTHBOUND (SB) MCHENRY AVENUE PROJECT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (167) – Construct Right Turn Lane Eastbound (EB) Briggsmore Avenue to Southbound (SB) McHenry Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a eastbound right turn lane at the southwest corner of Briggsmore Avenue and McHenry Avenue and,

WHEREAS, the City of Modesto desires Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements and,

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders and,

WHEREAS, on March 25th, 2010, Caltrans approved Categorical Exemption/Categorical Exclusion Document and,

WHEREAS, the project is consistent, and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed and,

WHEREAS, the City of Modesto requires an Agreement Related to Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities and,

WHEREAS, the Right Turn Lane Eastbound (EB) Briggsmore Avenue to Southbound (SB) McHenry Avenue Project is eligible for CMAQ funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Related to the Relocation of Electric Utility Poles between the City of Modesto and Modesto Irrigation District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-415

A RESOLUTION APPROVING AN AGREEMENT RELATED TO THE RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF $44,788.34 BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE SOUTHEAST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (168) - RIGHT TURN LANE NORTHBOUND (NB) MCHENRY AVENUE TO EASTBOUND (EB) BRIGGSMORE AVENUE PROJECT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (168) – Construct Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a northbound right turn lane at the southeast corner of Briggsmore Avenue and McHenry Avenue and,

WHEREAS, the City of Modesto desires Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements and,

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders and,

WHEREAS, on March 25th 2010, Caltrans approved Categorical Exemption/Categorical Exclusion Document and,

WHEREAS, the project is consistent, and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed and,

WHEREAS, the City of Modesto requires an Agreement Related to the Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities and,

WHEREAS, the Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project is eligible for CMAQ funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Related to the Relocation of Electric Utility Poles between the City of Modesto and Modesto Irrigation District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-416

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PRINTING OF THE MODESTO AREA EXPRESS RIDE GUIDE FOR THE PUBLIC WORKS DEPARTMENT, TRANSIT DIVISION, TO CONSOLIDATED PRINTERS, INC., BERKELEY, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $31,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the printing of the Modesto Area Express (MAX) Ride Guide, and

WHEREAS, the Purchasing Division issued RFB No. 1011-01 Printing of Modesto Area Express Ride Guide to twenty-one (21) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Sixteen (16) of the twenty-one (21) prospective bidders were local vendors, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Six (6) companies chose to respond, one of which was a local vendor. Five (5) of the six (6) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the printing of the MAX Ride Guide to Consolidated Printers, Inc., Berkeley, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the printing of the MAX Ride Guide to Consolidated Printers, Inc., Berkeley, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the printing of the MAX Ride Guide in Appropriation Unit: 6540-165-1672-0205,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the printing of the MAX Ride Guide for the Public Works Department, Transit Division, to Consolidated Printers, Inc., Berkeley, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $31,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-417

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF STORM BASIN WEED ABATEMENT AND TRASH REMOVAL SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, TO HORIZON LANDSCAPING, MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $72,650

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB's) for the furnishing of weed abatement and trash removal services, and

WHEREAS, the Purchasing Division issued RFB No. 0910-24 Weed Abatement and Trash Removal Services to seventeen (17) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Ten (10) of the seventeen (17) prospective bidders were local vendors, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Six (6) companies chose to respond, two (2) of which were local vendors. Five (5) of the six (6) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of weed abatement and trash removal services for the Public Works Department, Water Quality Control Division, to Horizon Landscaping, Modesto, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $72,650, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of weed abatement and trash removal services for the Public Works Department, Water Quality Control Division, to Horizon Landscaping, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the furnishing of weed abatement and trash removal services in Appropriation Unit: 6280-480-5312-0223,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of storm basin weed abatement and trash removal services for the Public Works Department, Water Quality Control Division, to Horizon Landscaping, Merced, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $72,650.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-418

RESOLUTION APPROVING A FIRST AMENDMENT TO THE SITE LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND NEW CINGULAR WIRELESS PCS TO PROVIDE FOR TWO (2) FIVE-YEAR EXTENSIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, on August 27, 2002, the City entered into a Site Lease Agreement with AT&T Wireless Services of California, LLC (AT&T), currently known as New Cingular Wireless PCS, whereby AT&T leased a portion of the existing water tower located near 10th and D Streets in Modesto for use as a cell tower, and

WHEREAS, the Site Lease Agreement had an initial term that expired on August 31, 2007, and was renewed in August 2007 for an additional term ending on August 31, 2012, and

WHEREAS, the existing Site Lease Agreement does not provide for any further extensions, and

WHEREAS, New Cingular Wireless PCS is currently the tenant under the Site Lease Agreement, and

WHEREAS, New Cingular Wireless PCS desires to amend the Site Lease Agreement to extend the term of the Agreement for two (2) five-year terms, and

WHEREAS, the extensions include increases to the lease revenue of 12.5% per extension, and

WHEREAS, the two (2) five-year term extensions shall be the only change to the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment of Site Lease Agreement between the City of

Modesto and New Cingular Wireless PCS, to provide for two (2) five-year extensions, at the option of the Tenant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-419

A RESOLUTION ACCEPTING THE WORK BY MID CAL PIPELINE & UTILITIES, INC. FOR THE "NINTH STREET AND L STREET SANITARY SEWER REHABILITATION" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $50,936.97

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Ninth Street and L Street Sanitary Sewer Rehabilitation project has been completed by Mid Cal Pipeline & Utilities, Inc., in accordance with the contract agreement dated March 23, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Ninth Street and L Street Sanitary Sewer Rehabilitation project is hereby accepted as complete from said contractor Mid Cal Pipeline & Utilities, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $50,936.97 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-420

A RESOLUTION ADOPTING THE 2010-2013 STRATEGIC PLAN

WHEREAS, Resolution No. 2001-558 adopted the City of Modesto Vision and Strategic Plan on October 16, 2001, which was built upon previous visioning and planning efforts on the part of the City, and

WHEREAS, the needs and resources of the City have drastically changed since that time, and

WHEREAS, in April 2010, the City Council met for two strategic planning workshops and a final workshop in August 2010, and

WHEREAS, the result of these workshops was the development of the vision, mission and values statements, and

WHEREAS, Council also developed the following six strategic commitments that embrace a culture of service excellence for the citizens of Modesto:

1. Build and promote partnerships that engage neighborhoods and create a sense of community.
2. Provide a safe and inviting community in which to live work and visit.
3. Provide an innovative and accountable city government that embraces a standard of excellence through adaptive leadership and responsive public service.
4. Foster a vibrant, competitive and diverse economic environment for business.
5. Champion education partnerships.
6. Promote Modesto, and

WHEREAS, the Strategic Commitments to the community and the initiatives and performance measures that support those commitments support the statement of policy as outlined in Section 725 of the Increase Accountability in City Hall Measure (M) of 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2010-2013 Strategic Plan, a copy of which is **attached** hereto as **Exhibit "A"** and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Mayor Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of MODESTO

STRATEGIC PLAN

2010-2013

EMBRACE IT

every day, for every customer

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Mayor's Message

Mayor, Jim Ridenour

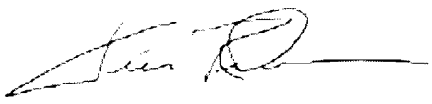
On behalf of the Modesto City Council, I am pleased to present you with Modesto's 2010-2013 Strategic Plan.

This Strategic Plan is a guiding document for the City organization over the next three years providing direction for staff as we move Modesto forward. Centered on commitments, initiatives and performance measures, it is our road map to success as well as an accountability tool.

We are right-sizing and reinventing local government by changing how the City does business. We are focusing outward to what is best for the community and partnering with other agencies, organizations and community groups to get things done.

This document focuses on six strategic commitments to the community. Progress will be monitored by performance measures that tie with each initiative under the broad commitments.

In addition to building on our past and looking toward the future, implementing this strategic plan enables us to move efficiently and effectively to meet the needs of our citizens. Thank you for being an active part of our community.



Mayor Jim Ridenour

MODESTO CITY COUNCIL

Dave Lopez
Vice Mayor, District 1

Dave Geer
District 2

Garrad Marsh
District 3

Joe Muratore
District 4

Kristin Olsen
District 5

Brad Hawn
District 6

ision

Modesto: a safe, attractive and vibrant city where people choose to raise a family, grow business and enjoy life.

ission

We are a service-driven organization committed to building partnerships that promote a vibrant business community and engaged neighborhoods.

alues

- We value effective and efficient government with measurable success, accountability, transparency and solution-oriented employees.
- We value the uniqueness of our community and its cultural richness through arts and entertainment and small-town charm.
- We value exceptional customer service, innovative thinking and collaborative partnerships.
- We value partnerships that encourage safe neighborhoods and families as well as an educated community.
- We value a competitive marketplace in which business, organizations and partnerships flourish.

Vision
Mission

Introduction

Welcome to the City of Modesto's Strategic Plan. This document is the foundation for how the City allocates its resources, prioritizes its initiatives to best serve the citizens of Modesto and responds to future challenges and changes in priorities. This document is our commitment to be a service-driven organization with a culture of excellence where citizens get the best and employees give their best every day. The initiatives in this document move us from where we are to where we want to be and the performance measures provide the criteria to measure our progress along the way.

he Planning Process

The City's last Strategic Plan was adopted in October 2001. The needs and resources of the City organization have drastically changed since that time, and as such City staff embarked on a new Strategic Plan that better reflects the resources available and the prioritization of those resources. In April 2010, the City Council met for two strategic planning workshops during which the following steps were taken:

- *Business and Operations Analysis (SWOT) Conducted:*

  Organizational and community strengths, weaknesses, opportunities and threats were discussed. Strengths included: location, strong non-profits, generous community, weather, entertainment, small-town charm, leadership and that the status quo is unacceptable. Weaknesses included: high drop-out rate, poor self-image, crime, weak customer service, current road conditions, traffic, fiscal challenges, lack of investment in the past, skill in workforce and being unfriendly to start-up businesses. Opportunities included: neighborhood associations/engagement, organizational right-sizing, regionalization, partnerships, redefining government, consolidation of services, agriculture as marketing tool, infill growth and redevelopment. Threats included: poor attitudes, crime, gangs, drugs, unemployment, non-competitive fees, over-regulated businesses and employee benefits.

- *Vision, Mission and Values Statements Developed:*

  Key words were discussed as they related to the City's vision, mission and core values. Definitions were also provided as to what each component should address. For the City's Vision, the Council focused on the inspiration for what they want Modesto to be and three themes were discussed—raising families, doing business and living. For the City's Mission statement, the Council focused on the organization's fundamental purpose and discussed services, partnerships and engaged neighborhoods. For the Values statements, the Council focused what they value about the community as well as the city organization. They arrived at core values for the organization and also the key assets of the community.

- *Key Strategic Commitments Developed:*

  Discussion of the Strategic Commitments occupied the bulk of both workshops. These commitments from the City Council are used to guide the direction of the community and will have measurable outcomes as initiatives from each department are fulfilled.

- *Department Initiatives & Performance Measures Established:*

  As the final step in this process, department directors incorporated the City Council's vision and developed initiatives for their respective departments in support of the Strategic Plan. The top initiatives are shown in this document; however, each department has a complete work plan by which they will be evaluated.

EMBRACE IT

every day, for every customer

Exceptional Service

Measurable Success

Build Trust

Results-Oriented

Accountability

Community Outreach

Excite Pride

Innovation

Teamwork

We will be
a service-driven
organization with a
culture of excellence
where citizens get
the best and
employees give
their best every day.

trategic Commitments

The City of Modesto's Strategic Plan is our commitment to make sound decisions about the services provided that are measurable and linked to fiscal resource allocations. Our six (6) Strategic Commitments are:

#1: *Build and promote partnerships that engage neighborhoods and create a sense of community.*

#2: *Provide a safe and inviting community in which to live, work and visit.*

#3: *Provide an innovative and accountable city government that embraces a standard of service excellence through adaptive leadership and responsive public service.*

#4: *Foster a vibrant, competitive and diverse economic environment for business.*

#5: *Champion education partnerships.*

#6: *Promote Modesto.*

Focus Areas of the City's Strategic Commitments :

Community & Partnerships

Public Safety

Effective City Government

Economic Development

Education

Enhancing Modesto's Image

epartment Initiatives

The Department initiatives listed on the subsequent pages highlight significant projects that form the core of the overall strategic commitments.

Departmental Initiatives will include performance measures that compare actual performance with expected results. The City's performance measures will capture the adjacent focus areas by measuring the following:

- What/How Much we Do? (Effect)
- How Well We Do It? (Quality/Efficiency)
- Is Anyone Better Off? (Outcome/Effect)

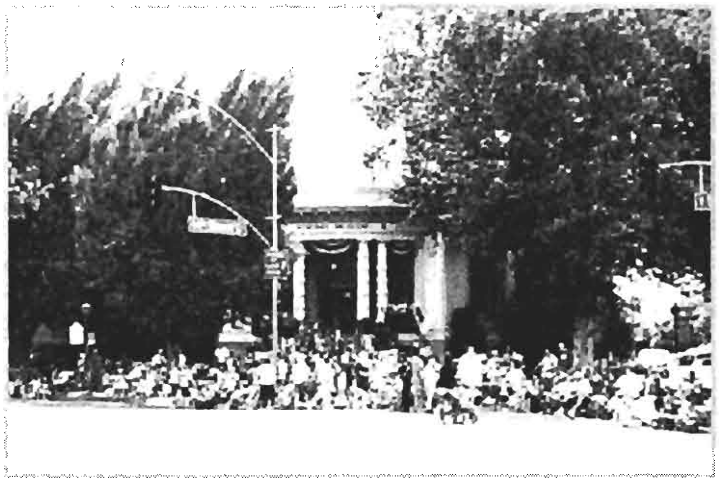
Community & Partnerships

uild and promote partnerships that engage neighborhoods and create a sense of community.

STRATEGIC COMMITMENT #1

Initiatives:

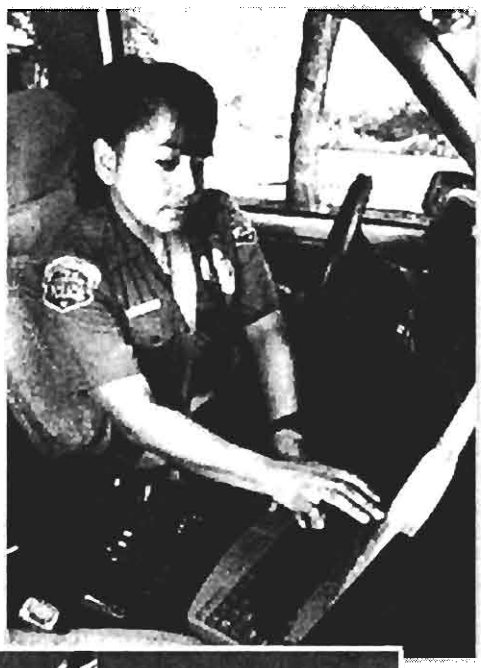
- Actively solicit, maintain and build new partnerships with organizations, volunteer groups and individuals that engage the community to improve neighborhoods.
- Partner with others to provide a wide range of cultural, entertainment, recreational and leisure opportunities that promote a healthy community.
- Support community events and activities that build community and neighborhood identity.
- Develop and deploy programs and partnerships to enhance and maintain the visual beauty of the City.
- Support strong and active neighborhood and business associations.
- Develop progressive code enforcement and neighborhood partnerships that encourage healthy and vital neighborhoods free of crime, blight and decline.
- Provide services and programs that enhance and diversify Modesto neighborhoods.

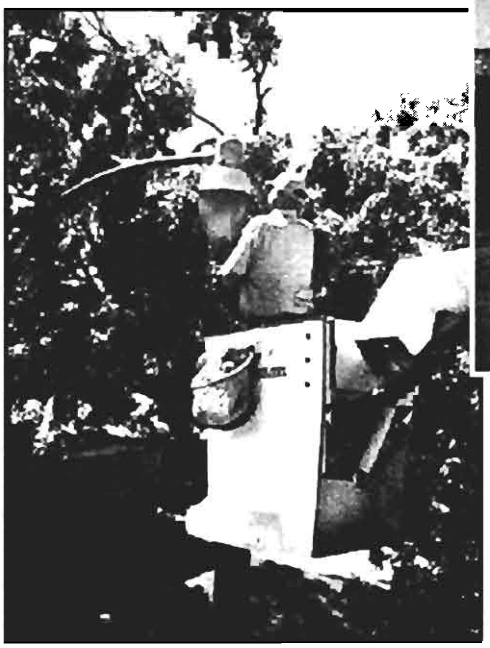


rovide a safe and inviting community in which to live, work and visit.

Initiatives:

- Create flexible Police units to address and reduce drugs, gang violence and auto thefts.
- Partner with local businesses to improve the downtown experience.
- Provide a safe and reliable network of public transportation, streets and sidewalks that promote walkability.
- Promote, enhance and increase community-based partnerships in crime prevention, fire and life safety and community policing.





Effective City Government

rovide an innovative and accountable city government that embraces a standard of service excellence through adaptive leadership and responsive public service.

STRATEGIC COMMITMENT #3

Initiatives:

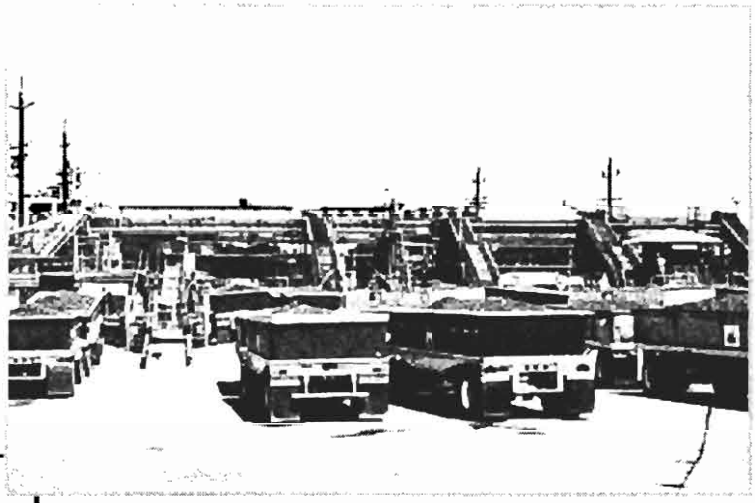
- Collaborate with other local governments, community organizations and the private sector to ensure delivery of effective and affordable services to our citizens.
- Foster a work environment of cooperation, collaboration, transparency, productivity and partnerships by implementing "Embrace It.... every day for every customer" throughout the organization as an expectation.
- Develop and implement customer satisfaction surveys to evaluate customer experiences with City services on a regular basis and implement appropriate service improvements.
- Integrate the Strategic Plan, departmental work plans and performance measures with the budget and resource allocation process.
- Expand the use of technology to streamline processes, maintain, analyze and provide information, and enhance services.

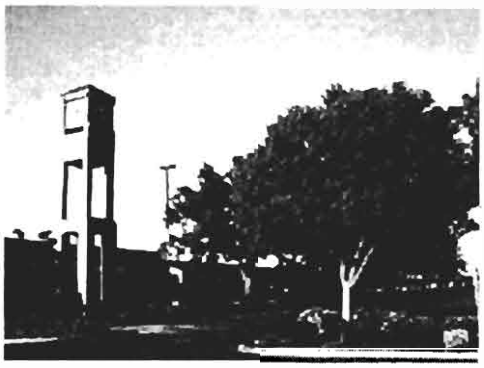
EMBRACE IT
every day, for every customer

oster a vibrant, competitive and diverse economic environment for business.

Initiatives:

- Encourage business attraction and retention through coordinated partnership efforts with the Chamber of Commerce, the Alliance, Downtown Improvement District, Convention and Visitor's Bureau and other organizations.
- Build upon existing local signature industries and resources by attracting complementary businesses and industries.
- Actively recruit businesses and industries that will bring a diverse foundation to Modesto's economic makeup.
- Build effective partnerships to address regional issues focusing on transportation, land use, utilities, fire and revenue sharing.
- Revitalize the City with a focus on strengthening existing neighborhoods and commercial areas as well as new development and redevelopment opportunities that foster unique and vibrant neighborhoods and business districts.
- Develop a customer liaison program.





STRATEGIC COMMITMENT #5

hampion education partnerships.

Initiatives:

- Partner with City departments, local educational institutions and community organizations to support and develop programs that involve our youth and encourage them to be productive citizens.
- Partner with and support education institutions and businesses to lower our region's high school drop out rate and increase the college-going rate.
- Partner with educational institutions to help prepare an educated workforce that will foster local economic vitality.
- Support events and activities locally that provide positive outlets for youth as a crime prevention tool.

romote Modesto.

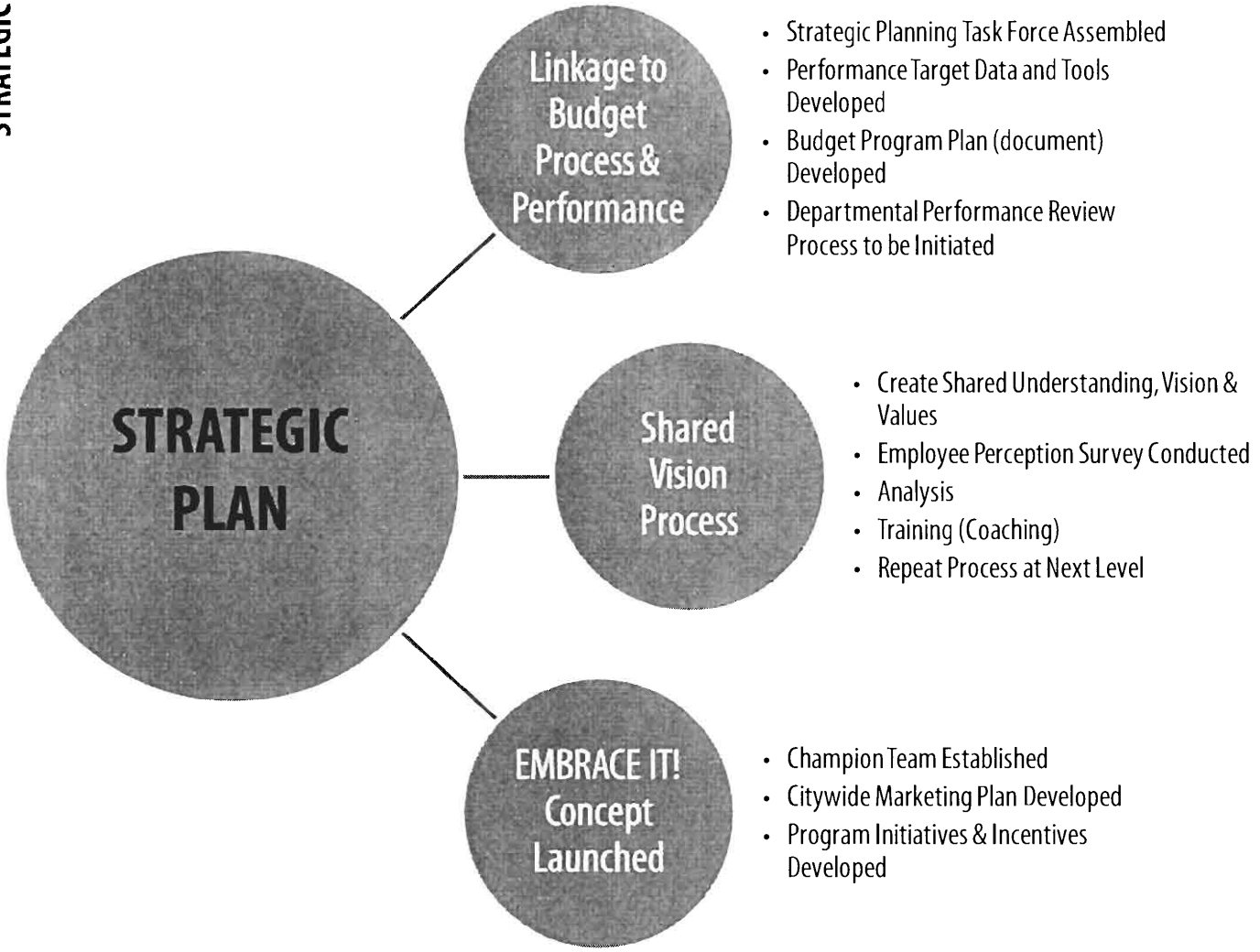
Initiatives:

- Promote and enhance Modesto's cultural activities and programs.
- Promoting Modesto as a destination location for both large events and private events.
- Promote the City as an employer of choice.
- Educate the community about City programs and services.
- Partner with local organizations, agencies and community groups to brand and promote Modesto with one cohesive message and identity.

trategic Planning and Budget Adoption Process

The strategic planning implementation process includes the creation of a Strategic Planning Task Force who will be responsible for developing procedures and tools to be used in finalizing performance measures, data collection, and a final budget outline. The Task Force will be assembled to develop not only the process of accountability, but also the tracking tools and methods. A reporting system will focus on issues, keep the strategic plan in the forefront of the City's priorities, provide feedback to the City's executive team, and create a strategic management philosophy and shared vision.

trategic Plan Project Strands



trategic Planning Process Responsibility Matrix

Implementing a strategic plan requires a strong commitment from top leadership and a focus on communication at every opportunity through focus, clarity and reinforcement. This approach, called strategic alignment, has several advantages when implemented properly, including:

1. Efficient use of increasingly scarce resources,
2. Increased speed of execution,
3. Promoting team efforts towards common goals, and
4. Improving employees' motivation by giving them a sense of contribution to the results of their individual groups and of the organization as a whole.

The first component of a successful strategic alignment is the communication necessary within the organization to understand the elements of the vision and of the key strategic directions needed. Repetition by the leadership and management teams at every opportunity, including community meetings, staff meetings, and operational business reviews allow each employee to understand how he/she contributes to the overall success.

The second component of a successful strategic alignment is absolutely essential— link the results of each employee's job to the progress of the entire organization's strategy and to do it clearly. This is best accomplished by using measures of key performances *(KBMs= key business metrics, or KPMs= key performance metrics)*, which can be connected to the employee's annual performance review.

Lastly, establishing the roles and responsibilities for the implementation of the strategic plan is critical. The below matrix provides a simple outline describing the roles and responsibility of staff.

Strategic Planning Process Responsibility Matrix

Responsible Party	Role	Description
Department Heads	Champion of the Strategic Plan and Budget Program Plans	Advocate of the Strategic Plan and main liaison to City Manager
Division Directors	Sponsors of Strategic Initiatives	Responsible for overseeing multiple goals that fall under a strategic initiative; ensure accountability, allocate resources, address issues
Managers/Supervisors & Employees	Strategy Leaders	Responsible for implementation, management, and completion of specific departmental initiatives

Embracing a Shared Vision and New Beginning

New Beginning

Since my appointment in 2008, it has been a pleasure and honor to serve as your City Manager for the City of Modesto. The last two years have been tough for all of us as we have felt the same hardships and successes. Yet, we will continue to look ahead, chart our course and work hard for this wonderful City.

On behalf of the Mayor, Council , Department Directors and City staff, it is with great enthusiasm and anticipation that I share with you the City's 2010-2013 Strategic Plan—our road map to embracing a new beginning and shared vision.

In charting this new journey, we first asked ourselves, have we met your expectations as City residents with excellence or mediocrity? Have we provided you with exceptional customer service on a consistent basis that is unmatched in local government? With certainty, the answer is that we have not, and this is a difficult reality. A reality that demands our attention to serving you better, and a mind-set that focuses on "customer first".

We recognize that in order to reinvent ourselves and how we do business we must change the culture, the very fabric of our City and embrace a culture of service excellence. This will not be an easy journey . It will take time and perseverance, as this is not a sprint it's a marathon! In starting this challenge we know that we cannot do it alone nor can we just leave it alone. Your voice is very important to us, we will need your input, patience and your partnership as we move forward. In the near future, we will hold several community meetings to obtain your input and comments.

In pursuing service excellence in City government, we have developed nine (9) key principles that reflect the standards that we are committed to as an organization. EMBRACE IT, every day, for every customer, is the cornerstone of our commitment. Being a champion of "EMBRACE IT" equates to being a champion of change, working toward a future that embraces community, businesses, partnerships and one that ignites a passion for service, innovation and accountability.

Lastly, please encourage us as you experience City services. Let us know if we are upholding the key principles that we have committed to as an organization.

Thank you for the opportunity to serve you!

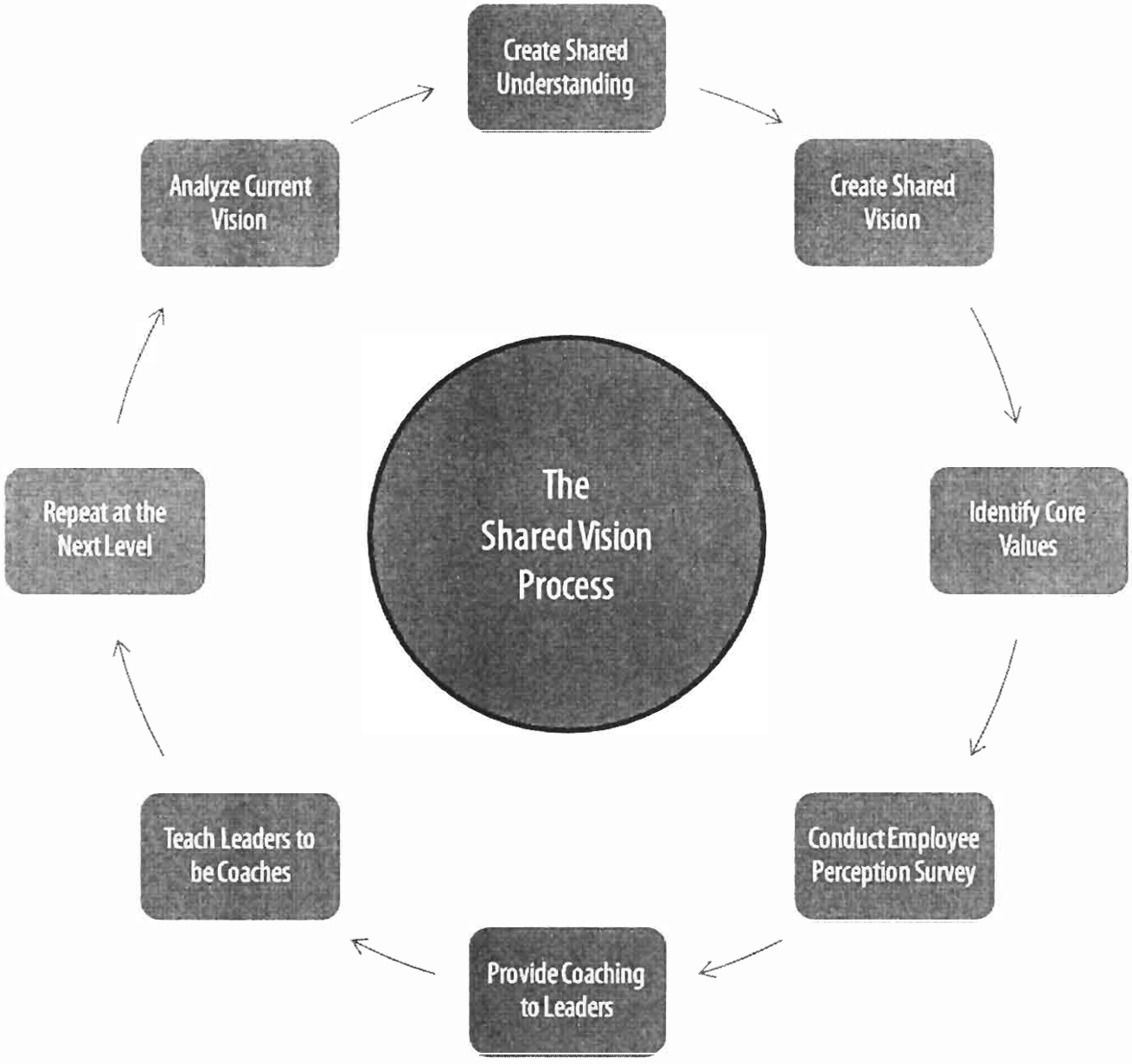
Greg Nyhoff

9 Key Principles

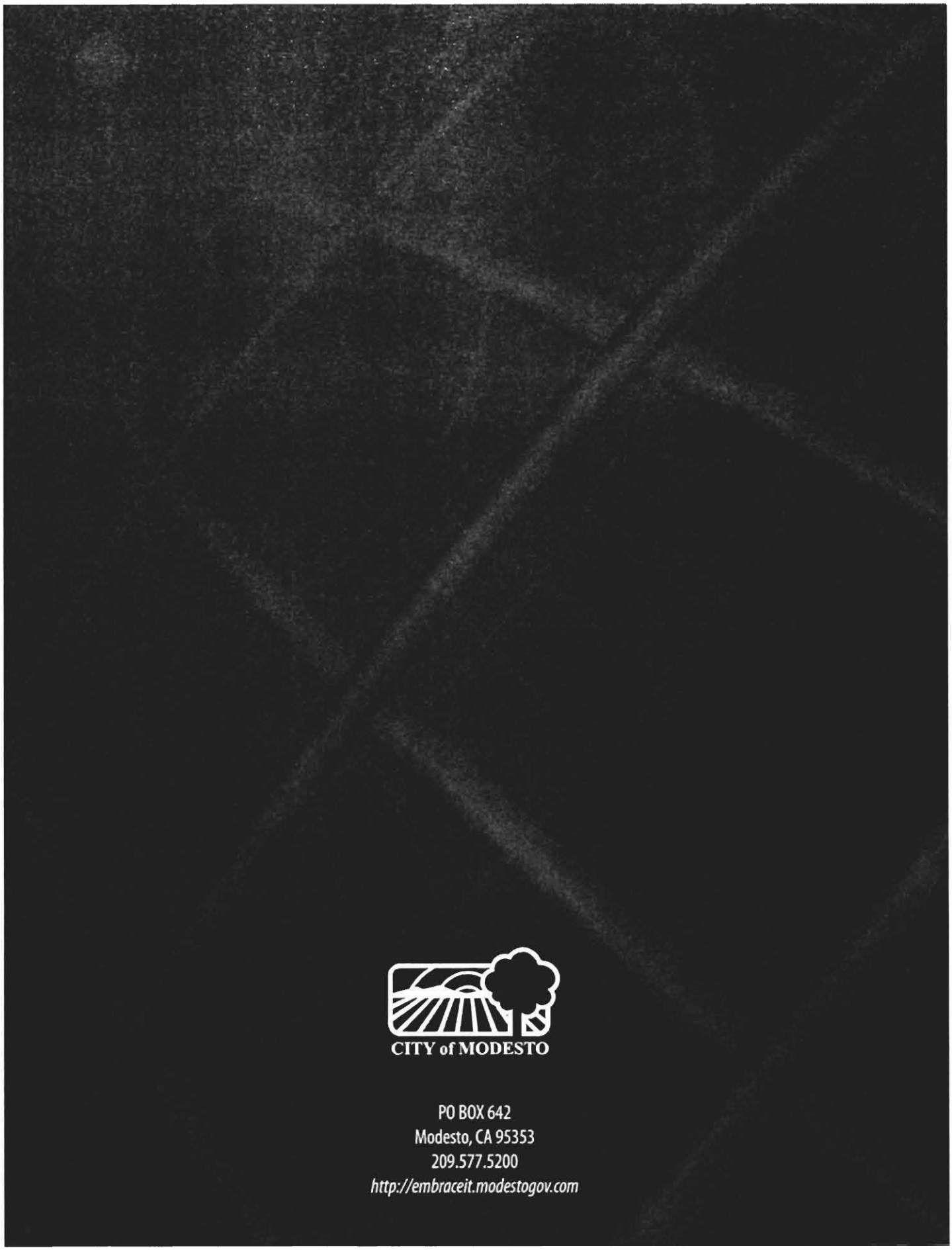
E=Exceptional Service
M=Measurable Success
B=Build Trust
R=Results Oriented
A=Accountability
C=Community Outreach
E = Excite Pride

I= Innovation
T=Teamwork

he Process



SHARED VISION PROCESS



CITY of MODESTO

PO BOX 642
Modesto, CA 95353
209.577.5200
http://embraceit.modestogov.com

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-421

RESOLUTION ACCEPTING THE STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT IN THE AMOUNT OF AT LEAST $100,000 FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE OVERTIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City's General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2010/2011 of at least $100,000, is to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby accepts the Chief of Police's Expenditure

Plan for the FY 2010/2011 State Supplemental Law Enforcement Services Fund allocation of at least $100,000 for police overtime.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-422

RESOLUTION AMENDING THE FISCAL YEAR 2010/2011 MULTI-YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF AT LEAST $100,000 FOR THE CITY OF MODESTO'S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, monies in any other fund except that monies may be transferred from the SLESF to the City's General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY) 2010/2011 of at least $100,000, to be made in four installments of $25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan, and

WHEREAS, the adopted FY 2010/2011 Police SLESF allocation in the amount of at least $100,000 will be applied to account number 0400-190-2107-3188,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2010/2011 Multi-Year Operating Budget to appropriate revenues and expenditures of at least $100,000 for the City of Modesto's allocation from the State Supplemental Law Enforcement Services Fund for police overtime, as shown in **Exhibit A attached** hereto.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of September, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The SLESF allocation for Fiscal Year 2010/2011 will be applied to:

	Revenue	Increase/(Decrease)	Description
To:	0400-190-2107-3188	$100,000	2010/11 SLESF Grant
	Expense		
To:	0400-190-2107-0130	$100,000	Overtime

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-423

RESOLUTION ACCEPTING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT, FOR A JOINT AWARD WITH THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO IN THE AMOUNT OF $235,816; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on May 25, 2010, the City Council, by Resolution 2010-205, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of $235,816, and

WHEREAS, the City of Modesto will use its allocation of $153,093 to offset police overtime costs, and

WHEREAS, the County of Stanislaus will use its allocation of $82,723 for the Probation Department and the Sheriff's Operations Division, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County with a quarterly financial and programmatic report not later than fifteen calendar days after the end of each quarter, and

WHEREAS, the project start period is July 1, 2010, and there is a statutory four-year period within which to spend the funds, and

WHEREAS, the Memorandum of Agreement was approved at the Board of Supervisors meeting on May 25, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Edward Byrne Memorial Justice Assistance Grant, for a joint award with the County of Stanislaus and the City of Modesto in the amount of $235,816.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-424

RESOLUTION AMENDING THE MULTI-YEAR 2010/11 OPERATING BUDGET, ESTIMATING REVENUE OF $153,093 FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM, AND APPROPRIATING FUNDS IN ORGANIZATION 0420-190-2003

WHEREAS, on May 25, 2010, the City Council, by Resolution No. 2010-205, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of $235,816, and

WHEREAS, recommended distribution of the 2010 grant is as follows:

Stanislaus County Probation	$ 17,988
Stanislaus County Sheriff	$ 60,000
Stanislaus County (Admin Fee)	$ 4,735
Modesto Police Department	$153,093

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Multi-Year 2010/2011 Operating Budget as indicated in **Attachment A**, which is attached hereto.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-425

RESOLUTION DECLARING THE CITY-OWNED PROPERTY LOCATED AT 309 MENSINGER AVENUE (APN: 113-004-022) AS SURPLUS PROPERTY, AUTHORIZING THE CITY'S PROPERTY AGENT TO PROCEED WITH THE SALE OF THIS PROPERTY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY SALE DOCUMENTS

WHEREAS, the City of Modesto owns the property at 309 Mensinger Avenue (APN 113-004-022), and

WHEREAS, this former well site is no longer used by the City and there are no other uses for this property by the City, and

WHEREAS, due to its small size and being below the minimum lot size for the area's R-1 residential zoning, this property does not fall within the scope of the Surplus Land Act, and

WHEREAS, the property located at 309 Menginger Avenue (APN: 113-004-022) has been appraised at $50,000, and

WHEREAS, staff recommends the site be sold as surplus property, and

WHEREAS, an adjoining property owner has expressed a desire to purchase the property, and

WHEREAS, staff recommends the City's property agent proceed with the sale of this property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the City-owned property (APN 113-004-022), known as 309 Mensinger Avenue, as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City's property agent to proceed with the sale of this property.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute all necessary sale documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-426

RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM ACCOUNT FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT TITLED, "NORTH POINT BASIN - RECONSTRUCTION", WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2010-2011

WHEREAS, in 1999, as part of the Northgate Offsite Improvement Plans, the NorthPointe detention basin (Costco Basin/Lift Station) was built to accommodate the storm runoff from the Costco Shopping Center on Pelandale Avenue, and

WHEREAS, in the past few years, there have been numerous issues at the basin due to the vineyard located on the northern border during flood irrigation causing the basin walls to erode, and

WHEREAS, in 2008, a small portion of the top of the northeast wall of the basin collapsed, and in May of 2009, staff found a larger collapse at the same location, and

WHEREAS, Blackburn Consulting conducted geotechnical testing and recommended solutions to the basin issues, and

WHEREAS, staff decided that the installation of a cut-off wall would be the best option, and

WHEREAS, the CIP Task Force reviewed and approved the installation of a cut-off wall and repair of the basin at its June 22, 2010 meeting, and

WHEREAS, the total amount of funding expected for both design and construction, including contingency and construction administration, of this project is $209,000, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2010-2011, and

WHEREAS, City staff recommends approving a new CIP Account 2750-140-X002 for the project titled, "NorthPointe Basin – Reconstruction",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account 2750-140-X002 for the project titled, "NorthPointe Basin – Reconstruction."

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-427

A RESOLUTION APPROVING AN AGREEMENT WITH BLACKBURN CONSULTING (BLACKBURN) FOR DESIGN SERVICES FOR NORTHPOINTE BASIN - RECONSTRUCTION, NORTHPOINTE CFD 2002-1 PROJECT IN AN AMOUNT NOT TO EXCEED $30,255 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $3,026 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $33,281, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 1999, as part of the Northgate Offsite Improvement Plans, the NorthPointe detention basin (Costco Basin/Lift Station) was built to accommodate the storm runoff from the Costco Shopping Center on Pelandale Avenue, and

WHEREAS, in the past few years, there have been numerous issues at the basin due to the vineyard located on the northern border during flood irrigation causing the basin walls to erode, and

WHEREAS, in 2008, a small portion of the top of the northeast wall of the basin collapsed, and in May of 2009, staff found a larger collapse at the same location, and

WHEREAS, in August of 2009, the Public Works Director approved a short list of local geotechnical and design firms to conduct a geotechnical investigation of the collapse and to provide recommendations of mitigating measures to prevent future erosion of the basin, and

WHEREAS, Request for Proposals were sent to the three local consultants on the short list: Blackburn Consulting, Kleinfelder, Inc., and Geological Technics, Inc., and

WHEREAS, only one proposal was received for the geotechnical and design services which was from Blackburn Consulting, and

WHEREAS, after reviewing their proposal, Blackburn was deemed qualified to perform the work, and

WHEREAS, on November 12, 2009, the City entered into an agreement with Blackburn to perform the geotechnical services for the NorthPointe Basin repair project, and

WHEREAS, a final draft of the report was submitted in March 2010, and after careful consideration, City staff decided that the installation of a cut-off wall would be the best option, and

HEREAS, City staff recommends an agreement with Blackburn Consulting as the City does not have the staffing level or subject matter expertise to complete the design services for the NorthPointe Basin – Reconstruction, NorthPointe CFD 2002-1 project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Design Services for NorthPointe Basin – Reconstruction, NorthPointe CFD 2002-1 with Blackburn Consulting, for an amount not to exceed $30,255 for the identified scope of services, plus $3,026 for additional services (if needed), for a maximum total amount of $33,281.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-429

Print

RESOLUTION APPROVING THE APPEAL OF SANDERS CONSTRUCTION COMPANY TO A BOARD OF ZONING ADJUSTMENT DECISION DENYING A CONDITIONAL USE PERMIT FOR A FREESTANDING FREEWAY-ORIENTED SIGN FOR A RESTAURANT LOCATED AT 3037 SISK ROAD

WHEREAS, on July 8, 2010, Sanders Construction Company applied for a Conditional Use Permit (File No. CUP-10-003) for a 65-foot high, 150-square foot freestanding freeway-oriented sign for property at the southwest corner of Sisk and Beckwith Roads at 3037 Sisk Road, and

WHEREAS, Sections 10-1.202(a) and 10-2.2504 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits and Section 2.2114(g) authorizes the Board of Zoning Adjustment to grant a freestanding sign under certain conditions, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 26, 2010, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which time the Board of Zoning Adjustment, by Resolution No. 2010-03, found and determined that the applicant had failed to demonstrate the necessary findings for a freeway-oriented sign at the subject location as required by Section 10-2.2114(g)(3) of the Modesto Municipal Code, specifically, that the use is not a freestanding use but is part of a shopping center, and

WHEREAS, on September 9, 2010, Sanders Construction Company filed an appeal with the City Clerk of the City of Modesto to the decision of the Board of Zoning Adjustment denying an application for a conditional use permit for a freestanding

freeway-oriented sign 65 feet in height and 150 square feet in area, at the southeast corner of Beckwith overpass and Freeway 99, and

WHEREAS, said appeal was set for public hearing before the City Council at its regular meeting place in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at 5:30 p.m. on October 5, 2010, at which time evidence both oral and documentary was taken and introduced, and

WHEREAS, Council heard evidence from appellant establishing that the restaurant is considered a freestanding use and not part of a shopping center, because the uses in the center do not share a single merchants' association, and the restaurant does not attract customers by its proximity to other businesses, and that the restaurant acts as an independent, regional draw; and

WHEREAS, the evidence presented to the Council shows that the use or occupancy cannot be adequately identified by other signs permitted within the applicable zone, because the business cannot be seen from the freeway as it is blocked from view by the retail building located along the freeway off ramp; and

WHEREAS, based on the above, the Council determined that the findings for a Conditional Use Permit for a freeway-oriented sign for the proposed restaurant, as required by Section 10-2.2114(g)(3) of the Modesto Municipal Code, can be made, specifically that:

(a) the restaurant is considered a freestanding use; and

(b) the use or occupancy cannot be adequately identified by other signs permitted within the applicable zone.

NOW, THEREFORE, BE IT RESOLVED by the City Council that based on the above findings the appeal of Sanders Construction Company to the decision of the Board of Zoning Adjustment denying an application for a Conditional Use Permit in the C-3 Zone for a freestanding, 65-foot-high, 150-square-foot freeway-oriented sign be granted and the Conditional Use Permit for said sign be approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-428

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO SET UP THE CIP ACCOUNT TO FULLY FUND DESIGN AND CONSTRUCTION, INCLUDING CONTINGENCY AND CONSTRUCTION ADMINISTRATION, FOR THE NORTHPOINTE BASIN - RECONSTRUCTION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $209,000, in order to set up the CIP account to fully fund design and construction, including contingency and construction administration, for the NorthPointe Basin - Reconstruction project, and

WHEREAS, the Fiscal Year 2010-2011 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2010-2011 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-430

RESOLUTION ACCEPTING THE ASSISTANCE TO FIREFIGHTER'S GRANT, IN THE AMOUNT OF $1,079,500, ON BEHALF OF THE MODESTO FIRE DEPARTMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT ACCEPTANCE DOCUMENTS

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, using a regional approach, for the mobile data computer (MDC) needs countywide, and

WHEREAS, this approach allows for the City of Modesto to host the grant activity, which will include the purchasing and distribution of 170 MDC's, antenna and the installation of same to seventeen (17) Fire Departments and Fire Protection Districts countywide, and

WHEREAS, this grant provides for the replacement of the Modesto Fire Department's outdated and unreliable units which are currently in service, and

WHEREAS, the new MDC's will allow the use of tracking capabilities by Dispatch allowing for the dispatch of the closest resource ensuring the fasted response times possible, and

WHEREAS, this grant provides a mechanism for departments/districts which were previously unable to purchase MDC's the ability to procure this equipment, thus increasing that agency's ability to communicate with dispatch, and

WHEREAS, this grant has a twenty percent (20%) match and as such, other departments/districts which have elected to be a part of this grant purchase will fund their match in advance of products being ordered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of

Modesto that it hereby authorizes acceptance of the Assistance to Firefighter's grant, in the amount of $1,079,500, on behalf of the Modesto Fire Department,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary grant acceptance documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-431

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 MULTI-YEAR OPERATION GRANTS FUND TO ESTABLISH A NEW MULTI-YEAR BUDGET FOR THE ASSISTANCE TO FIREFIGHTER'S GRANT

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, using a regional approach, for the mobile data computer (MDC) needs countywide, and

WHEREAS, this approach allows for the City of Modesto to host the grant activity, which will include the purchasing and distribution of 170 MDC's, antenna and the installation of same to seventeen (17) Fire Departments and Fire Protection Districts countywide, and

WHEREAS, this grant provides for the replacement of the Modesto Fire Department's outdated and unreliable units which are currently in service, and

WHEREAS, the new MDC's will allow the use of tracking capabilities by Dispatch allowing for the dispatch of the closest resource ensuring the fasted response times possible, and

WHEREAS, this grant provides a mechanism for departments/districts which were previously unable to purchase MDC's the ability to procure this equipment, thus increasing that agency's ability to communicate with dispatch, and

WHEREAS, this grant has a twenty percent (20%) match and as such, other departments/districts which have elected to be a part of this grant purchase will fund their match in advance of products being ordered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 Multi-Year Operation Grants Fund is hereby

amended to establish a new multi-year budget for the Assistance to Firefighters Grant.

Revenue Account: 0410-180-2850-3550 and 0410-180-2850-3708

Expense Account: 0410-180-2850-5400

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-432

A RESOLUTION AMENDING THE FISCAL YEAR 2010-11 OPERATING BUDGET BY TRANSFERRING $39,000 FROM 0100-180-1810-0308 TO THE NEW MULTI-YEAR OPERATIONS GRANT FUND BUDGET ESTABLISHED FOR THE ASSISTANCE TO FIREFIGHTERS GRANT FOR MOBILE DATA COMPUTERS

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, using a regional approach, for the mobile data computer (MDC) needs countywide, and

WHEREAS, this approach allows for the City of Modesto to host the grant activity, which will include the purchasing and distribution of 170 MDC's, antenna and the installation of same to seventeen (17) Fire Departments and Fire Protection Districts countywide, and

WHEREAS, this grant provides for the replacement of the Modesto Fire Department's outdated and unreliable units which are currently in service, and

WHEREAS, the new MDC's will allow the use of tracking capabilities by Dispatch allowing for the dispatch of the closest resource ensuring the fasted response times possible, and

WHEREAS, this grant provides a mechanism fore departments/districts which were previously unable to purchase MDC's, the ability to procure this equipment thus increasing that agency's ability to communicate with dispatch, and

WHEREAS, this grant has a twenty percent (20%) match and as such, other departments/districts which have elected to be a part of this grant purchase will fund their match in advance of products being ordered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-11 Operating Budget by transferring $39,000 from 0100-180-1810-0308 to the new Multi-Year Operations Grant Fund budget established for the Assistance to Firefighter's Grant.

From: GF Operating Account 0100-180-1810-0308

To: MY Operational Grant Fund Expense Account: 0410-180-2850-5400

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of October, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-433

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "TRAFFIC OPERATIONS BUILDING – TENANT IMPROVEMENTS;" ACCEPTING THE BID; APPROVING A CONTRACT WITH D. M. ALEGRE CONSTRUCTION, INC., OF TRACY, CALIFORNIA, IN THE AMOUNT OF $183,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Traffic Operations Building Tenant Improvements project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Traffic Operations Building-Tenant Improvements project were opened at 11:00 a.m., on September 14, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $183,000 received from D. M. Alegre Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to D. M. Alegre 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 Traffic Operations Building-Tenant Improvements project, accepts the bid of D. M. Alegre Construction, Inc., of Tracy, California, in the amount of $183,000, and awards D. M. Alegre Construction, Inc., the contract for the Traffic Operations Building-Tenant Improvements project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-434

RESOLUTION APPROVING A FINANCIAL ADVISORY SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND PUBLIC FINANCIAL MANAGEMENT FOR FINANCIAL MANAGEMENT CONSULTING SERVICES, FOR A NOT TO EXCEED AMOUNT OF $45,000 PER FISCAL YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, it is desirable for the City to retain a financial advisor and consult with said advisor on various topics including but not limited to the following;

- Future bond issuance strategies
- Emerging and existing financing mechanisms
- Management of swap agreements and collateral postings
- Various other questions related to financial management being posed by the Mayor, Council and the City Manager's Office, and

WHEREAS, the expertise in the above-mentioned financial areas does not currently exist within the Finance Department of the City, and

WHEREAS, it would not be fiscally prudent to fund a full-time position to try and bring the expertise in-house, and

WHEREAS, the proposed contract will allow the City to access the financial expertise as needed when the specific issues arise,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Financial Advisory Services Agreement between the City of Modesto and Public Financial Management, San Francisco, CA, for a not to exceed amount of $45,000 per fiscal year.

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 October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-435

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A TROMMEL SCREEN FOR THE PARKS, RECREATION, AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE DIVISION, COMPOST FACILITY, TO EIREANN MACHINERY, SAN FRANCISCO, CA, FOR AN ESTIMATED TOTAL COST OF $312,120

WHEREAS, Council authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the lease/purchase of a trommel screen, for the Parks, Recreation, and Neighborhoods Department, Solid Waste Division, Compost Facility, and

WHEREAS, the Purchasing Division issued RFB No. 0910-12, purchase or lease/purchase of a trommel screen to sixteen (16) prospective bidders, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Eight (8) companies chose to respond, none of the eight (8) prospective bidders were local vendors.

Six (6) companies did not meet the minimum technical specifications required in the RFB and were disqualified. Two companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a trommel screen for the Parks, Recreation, and Neighborhoods Department, Solid Waste Division, Compost Facility, to Eireann Machinery, San Francisco, CA, for an estimated total cost of $312,120.

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a trommel screen for the Parks,

Recreation, and Neighborhoods Department, Solid Waste Division, Compost Facility, to Eireann Machinery, San Francisco, CA, for an estimated total cost of $312,120 conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of a trommel screen in Solid Waste field equipment fund (6290-355-5222-5600).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a trommel screen for the Parks, Recreation, and Neighborhoods Department, Solid Waste Division, Compost Facility, to Eireann Machinery, San Francisco, CA, for an estimated total cost of $312,120.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated total cost of $312,120.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-436

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 OPERATING BUDGET TO MOVE $184,120 FROM SOLID WASTE FUND RESERVES TO THE OPERATING BUDGET AND TO MOVE $128,000 FROM THE CURRENT BUDGET ACCOUNTS INTO THE FIELD EQUIPMENT ACCOUNT (6290-355-5222-5600)

WHEREAS, a budget adjustment is required to move $184,120 from Solid Waste Fund Reserves to operating budget and to move $128,000 from current budget accounts into the field equipment account (6290-355-5222-5600) to fully purchase a trommel screen for the Solid Waste Division for a total estimated cost of $312,120 and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 Operating Budget in order to fully purchase a trommel screen for the Parks, Recreation, and Neighborhoods Department, Solid Waste Division, Compost Facility.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October 12, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-437

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2010-2011 budgets have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT

An adjustment is necessary to adjust the FY2010-11 Operating Budget to match the operating budget set forth in the Annual Engineer's Report approved by the City Council on June 9, 2010. Reserve funds in the amount of $5,823 for Landscape Maintenance Assessment District No. 1 will be appropriated to cover the operating expenses for FY2010-11.

FIRE

An adjustment is necessary to recognize previously unbudgeted revenues in the amount of $1,800 for On-Site Fire Main Test fees.

PARKS, RECREATIONS AND NEIGHBORHOODS

An adjustment is necessary to recognize additional Entitlement Grant Revenue in the amount of $2,445 in the Emergency Shelter Program Fund (1180) and appropriate the same amount for Direct Grant expense in FY2009-10. The revenue was received by the department as a part of the revised annual action plan but was inadvertently not budgeted.

PUBLIC WORKS/UTILITY PLANNING & PROJECTS

An adjustment is necessary to recognize unbudgeted revenue in the amount of $34,960 from the California Emergency Management Agency and re-appropriate these funds for the addition of a surveillance system at the Transportation Center and Bus Yard.

The City of Modesto received $1,903,473 of Prop 42 funding in FY 2009-10. This funding came with the stipulation that it must be spent by June 30, 2011. Receipt of these funds required the Surface Transportation Fund task group to revise the allocation of expenditures in the Surface Transportation Fund (0700) to include slurry seal project and adjust transfers between the main fund (0700) and two sub funds (0720 and 0730). This adjustment will create the $1,149,397 expense budget for the slurry seal project and increase the transfers from the sub funds (0720 and 0730) to the main fund (0700) by $307,093. These adjustments are necessary to ensure that the City is adhering to funding restrictions.

An adjustment is necessary to transfer funds from Wastewater Reserves to Objects 6040-Construction and 6060-Construction Administration in Capital Improvement Project A049-Celeste/Rose/Scenic Sewer Improvement to fund the legal settlement and expenses of the project. This transfer includes a Legal Settlement with contractor, California Trenchless Inc. in the amount of $165,000 approved by Council in closed session, and legal expenses in the amount of $75,000 to the law firms of Davidovitz & Bennett and to TR&A, Inc. for the project. There are sufficient funds in Wastewater Reserves to cover the costs of the required re-appropriation of funds to Objects 6040 and 6060.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-438

RESOLUTION ACCEPTING THE ASSISTANCE TO FIREFIGHTERS GRANT FOR PULSE-CARBON MONOXIDE OXIMETERS, IN THE AMOUNT OF $22,000, ON BEHALF OF THE MODESTO FIRE DEPARTMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT ACCEPTANCE DOCUMENTS

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, for pulse-carbon monoxide oximeters, and

WHEREAS, these meters will be used to confirm, in a timely manner, the presence of carbon monoxide poisoning, and

WHEREAS, timely diagnosis is critical and treatment is critical to prevent long term risk of cardiac and neurological impediments, and

WHEREAS, typically, carbon monoxide poisoning is associated with house fires and automobile exhaust fumes. We are now finding more carbon monoxide poisoning, due to economic reasons, related to the use of portable gas powered generators, stoves and barbeques being used as heating options, and

WHEREAS, the signs and symptoms of carbon monoxide poisoning are vague and non-specific. For that reason it is easy to miss in the diagnostic process. This tool will allow for an instant reading of those levels during routine patient evaluations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes acceptance of the Assistance to Firefighters grant for pulse-carbon monoxide oximeters, in the amount of $22,000, on behalf of the Modesto Fire Department,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary grant acceptance documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-439

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 MULTI-YEAR OPERATION GRANTS FUND TO ESTABLISH A NEW MULTI-YEAR BUDGET FOR THE ASSISTANCE TO FIREFIGHTERS GRANT

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, for pulse-carbon monoxide oximeters, and

WHEREAS, these meters will be used to confirm, in a timely manner, the presence of carbon monoxide poisoning, and

WHEREAS, timely diagnosis is critical and treatment is critical to prevent long term risk of cardiac and neurological impediments, and

WHEREAS, typically, carbon monoxide poisoning is associated with house fires and automobile exhaust fumes. We are now finding more carbon monoxide poisoning, due to economic reasons, related to the use of portable gas powered generators, stoves and barbeques being used as heating options, and

WHEREAS, the signs and symptoms of carbon monoxide poisoning are vague and non-specific. For that reason it is easy to miss in the diagnostic process. This tool will allow for an instant reading of those levels during routine patient evaluations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 Multi-Year Operation Grants Fund is hereby amended to establish a new multi-year budget for the Assistance to Firefighters Grant.

Revenue Account: 0410-180-2851-3550

Expense Account: 0410-180-2851-0308

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-440

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 MULTI-YEAR OPERATING BUDGET BY TRANSFERRING $4,400 FROM THE FIRE DEPARTMENT, FINANCE AND LOGISTICS, TOOLS, SHOP AND FIELD ACCOUNT #0100-180-1810-0308 TO THE NEW MULTI-YEAR OPERATIONS GRANT FUND BUDGET ESTABLISHED FOR THE ASSISTANCE TO FIREFIGHTERS GRANT FOR PULSE-CARBON MONOXIDE OXIMETERS

WHEREAS, in 2009, the Modesto Fire Department applied for the 2009 Assistance to Firefighters Grant, for pulse-carbon monoxide oximeters, and

WHEREAS, these meters will be used to confirm, in a timely manner, the presence of carbon monoxide poisoning, and

WHEREAS, timely diagnosis is critical and treatment is critical to prevent long term risk of cardiac and neurological impediments, and

WHEREAS, typically, carbon monoxide poisoning is associated with house fires and automobile exhaust fumes. We are now finding more carbon monoxide poisoning, due to economic reasons, related to the use of portable gas powered generators, stoves and barbeques being used as heating options, and

WHEREAS, the signs and symptoms of carbon monoxide poisoning are vague and non-specific. For that reason it is easy to miss in the diagnostic process. This tool will allow for an instant reading of those levels during routine patient evaluations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that amending the Fiscal Year 2010-11 Operating Budget is hereby amended by transferring $4,400 from the Fire Department, Finance and Logistics, Tools, Shop and Field Account #0100-180-1810-0308 to the new Multi-Year Operations Grant Fund budget established for the Assistance to Firefighters Grant for pulse-carbon monoxide oximeters.

From: GF Operating Account 0100-180-1810-0308 (Modesto Fire Department, Finance and Logistics, Tools, Shop and Field)

To: MY Operational Grant Fund Expense Account: 0410-180-2851-0308

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-441

RESOLUTION APPROVING AN AGREEMENT WITH AEG CYCLING, LLC FOR THE CITY OF MODESTO TO BE A HOST CITY FOR A STAGE FINISH FOR THE 2011 AMGEN TOUR OF CALIFORNIA; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS for the past four years the Amgen Tour of California has traveled through the State of California generating over $100 million of economic impact to the Host Cities and over one billion marketing impressions created worldwide, and

WHEREAS, on August 10, 2010 the Council, by Resolution No. 2010-361, approved a Request for Proposal (RFP) application for the City of Modesto to apply to become a "Host City" for the 5th Annual Amgen Tour of California, and

WHEREAS, in October, the City of Modesto was notified that it had been selected to host a stage finish of the 2011 Amgen Tour of California to be held on May 17, 2011, and

WHEREAS, an agreement between the City of Modesto and AEG Cycling, LLC is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with AEG Cycling, LLC for Modesto to be a Host City for a stage finish for the 2011 Amgen Tour of California, to be held on May 17, 2011.

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 October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-442

RESOLUTION APPROVING AN AGREEMENT WITH CALIFORNIA CONSULTING, LLC FOR ON-CALL GRANT RESEARCHING AND WRITING SERVICES FOR VARIOUS CITY UTILITY-RELATED PROJECTS, IN AN AMOUNT NOT TO EXCEED $30,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto is working with Turlock Irrigation District (TID) and other participating cities on a joint project, known as the Regional Surface Water Supply Project (RSWSP), to supply each agency with treated TID-supplied surface water, and

WHEREAS, the RSWSP would be an augmentation to the existing groundwater and Modesto Irrigation District-supplied surface water the City currently receives, and

WHEREAS, the City is also working with Del Puerto Water District and the other participating cities on a proposed regional project, known as the North Valley Regional Recycled Water Project (NVRRWP), to supply tertiary-treated recycled water to the West side, and

WHEREAS, additionally, the City is working with the cities of Turlock, Ceres and Hughson to develop an Integrated Water Resources Management Plan (IRWMP) for our region, and

WHEREAS, the IRWMP is required for our projects to compete effectively for state funding related to water, wastewater and storm water programs, and

WHEREAS, the costs associated with the RSWSP, the NVRRWP and projects identified through the IRWMP process make it prudent to seek grant funding and other alternative funding to help reduce costs to the ratepayers, and

WHEREAS, in accordance with Administrative Directive 3.1, the Director of Utility Planning & Projects allowed an accelerated selection process in which a short list of pre-qualified consultants was established to receive an RFP, in lieu of going through the longer Request for Qualifications process, and

WHEREAS, this accelerated consultant selection process was based on the fact that there are a very limited number of firms providing these targeted services, and

WHEREAS, City staff from the Utility Planning and Projects Department reviewed the statements for compliance with the general scope of work, and recommended approving an agreement for grant researching and writing services with California Consulting, LLC, and

WHEREAS, California Consulting offers general grant writing, and also has specialized relations with the Governor's Office, the State Legislature, and state government agencies that issue grant monies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with California Consulting, LLC for on-call Grant Researching and Writing Services for various City utility-related projects, in an amount not to exceed $30,000.

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 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-443

RESOLUTION APPROVING AN AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR ON-CALL GRANT RESEARCHING AND WRITING SERVICES FOR VARIOUS CITY UTILITY-RELATED PROJECTS, IN AN AMOUNT NOT THE EXCEED $30,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto is working with Turlock Irrigation District (TID) and other participating cities on a joint project, known as the Regional Surface Water Supply Project (RSWSP), to supply each agency with treated TID-supplied surface water, and

WHEREAS, the RSWSP would be an augmentation to the existing groundwater and Modesto Irrigation District-supplied surface water the City currently receives, and

WHEREAS, the City is also working with Del Puerto Water District and the other participating cities on a proposed regional project, known as the North Valley Regional Recycled Water Project (NVRRWP), to supply tertiary-treated recycled water to the West side, and

WHEREAS, additionally, the City is working with the cities of Turlock, Ceres, and Hughson to develop an Integrated Water Resources Management Plan (IRWMP) for our region, and

WHEREAS, the IRWMP is required for our projects to compete effectively for state funding related to water, wastewater and storm water programs, and

WHEREAS, the costs associated with the RSWSP, the NVRRWP and projects identified through the IRWMP process make it prudent to seek grant funding and other alternative funding to help reduce costs to the ratepayers, and

WHEREAS, in accordance with Administrative Directive 3.1, the Director of Utility Planning & Projects allowed an accelerated selection process in which a short list of pre-qualified consultants was established to receive an RFP, in lieu of going through the longer Request for Qualifications process, and

WHEREAS, this accelerated consultant selection process was based on the fact that there are a very limited number of firms providing these targeted services, and

WHEREAS, City staff from the Utility Planning and Projects Department reviewed the statements for compliance with the general scope of work, and recommended approving an agreement for grant researching and writing services with RMC Water and Environment, and

WHEREAS, RMC Water and Environment has experience in obtaining grant funding for recycled water programs and integrated regional water management programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year Agreement with RMC Water and Environment for on-call Grant Researching and Writing Services for various City utility-related projects, in an amount not to exceed $30,000.

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 12th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-444

A RESOLUTION ACCEPTING THE WORK BY EBERT MCGUIRE AND HESTER FOR THE "PRIMARY OUTFALL PROJECT – PHASE I" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $3,835,698.50

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Primary Outfall Rehabilitation Project – Phase I project has been completed by Ebert McGuire and Hester in accordance with the contract agreement dated December 14, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Primary Outfall Rehabilitation Project – Phase I project is hereby accepted as complete from said contractor Ebert McGuire and Hester, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $3,835,698.50 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-445

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 8-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(131), TO HIGHWAY COMMERCIAL ZONE, C-3, PROPERTY LOCATED AT 3737 MCHENRY AVENUE. (MODESTO COMMERCE BANK)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Modesto Commerce Bank has proposed that the zoning designation for the property located at the southwest corner of McHenry Avenue and West Union Avenue, be amended to rezone from Planned Development Zone P-D (131), to Highway Commercial Zone (C-3), 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 2010-22 ("Initial Study") reviewed the proposed rezone from Planned Development P-D(131) to Highway Commercial (C-3) 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 September 22, 2010 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 12, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezoning from Planned Development Zone P-D(131) to Highway Commercial (C-3), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of October, 2010, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2010-22

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2010-22

For the proposed:

Rezone from Planned Development Zone P-D (131) to the C-3 "Highway Commercial" Zone to Facilitate Development Potential of the Vacant Commercial Site Located at 3737 McHenry Avenue

(SW Corner of McHenry Avenue and W. Union Avenue)
APN: 055-038-019

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

August 16, 2010

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City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Rezone from Planned Development P-D(131) to C-3 Highway Commercial Zone is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Rezone from Planned Development Zone P-D (131) to the C-3 Highway Commercial Zone

B. Address or Location: 3737 McHenry Avenue, Modesto, CA 95356 (SW Corner of McHenry Avenue and W. Union Avenue) APN: 055-038-019

C. Applicant: Modesto Commerce Bank; PO Box 1110, Stockton, CA 95201

D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin
Department: Planning Division
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): C "Commercial"

F. Current Zoning Classification(s): Planned Development Zone P-D(131) for Automotive Dealership Uses

G. Surrounding Land Uses:

North: Planned Development Zone P-D(120), Automotive Dealership

South: R-1 Low-Density Residential Zone, apartment complex; C-3 Highway Commercial Zone, Modesto Promenade Shopping Center (sporting goods store and bookstore anchors)

East: C-3 Highway Commercial Zone uses with convenience store, automotive dealership, Planned Development Zone P-D(320) with bowling alley

West: R-2 Medium-Density Residential Zone uses, duplexes

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 an existing 5.19-acre lot zoned as Planned Development Zone P-D(131) to the C-3 "Highway Commercial" Zone. Under the current Planned Development zoning, potential for the property is limited to automotive dealership uses. The site is vacant and in order to facilitate reuse opportunities that would be consistent with the C-3 Zone uses to the north, south and east, the applicant proposes to rezone the property from Planned Development Zone P-D(131) to the C-3 "Highway Commercial" Zone. This would allow for a variety of uses including retail, restaurant, professional and/or medical offices and automotive services as permitted in the C-3 Zone, subject to Development Plan Review by the Director of the Community and Economic Development Department as provided by Article 30 of the City of Modesto Municipal Code. Any future development would be assessed for consistency to applicable City Zoning Ordinances, Design Guidelines and City Standards. The site is developed with four existing buildings previously utilized as an automotive dealership.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. ___ Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.____ Focused EIR Required- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Project Manager	Associate Planner Title	August 16, 2010 Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	**NO**
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	☒	☐
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from Planned Development Zone, P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: TC-42 and TC-47 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	☐	☐	☐	☒
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	☐	☐	☐	☒
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	☐	☐	☐	☒
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	☐	☐	☐	☒
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	☐	☐	☐	☒

Discussion:

(1-7) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed traffic generation consistent with the type and intensity of uses that would be permitted by this rezoning. The site is already developed with four existing buildings previously used as an automotive dealership. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards for site access to and from adjacent streets, internal circulation and parking.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_X) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM_{10}, and $PM_{2.5}$.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: AQ-17 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$ by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	☐	☐	☐	☒
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO_x, PM_{10}, and $PM_{2.5}$.	☐	☐	☐	☒
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	☐	☐	☐	☒
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	☐	☐	☐	☒
5) The proposed project would create objectionable odors affecting a substantial number of people.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed traffic volumes and emissions consistent with the type and intensity of uses that would be permitted by this rezoning. The site is already developed with four existing buildings previously used as an automotive dealership.

(2) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

(3) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

(4-5) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: N-4 and N-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☐	☐	☒
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The proposed project is to rezone an existing development from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone uses to facilitate future development of the site. Any future development would be required to adhere to the City's noise ordinance.

(2-4) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion: No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	☐	☐	☐	☒
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	☐	☐	☐	☒
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	☐	☐	☐	☒
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership. The site is surrounded by urban uses and would not result in development of land outside of the City's General Plan boundary.

(3-4) The project site is not zoned for agricultural use. There is no existing Williamson Act contract on the property. The site is surrounded by urban uses and would not cause the conversion of additional farmland to a non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: WS-11 and WS-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	☒
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	☐	☐	☐	☒
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed water demand to be consistent with the type and intensity of development that would be permitted by this rezoning. The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: SS-8 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	☐	☐	☐	☒
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed wastewater generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion: There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	☐	☐	☐	☒
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	☐	☐	☐	☒
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership.

(2-4) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(5-6) The proposal to rezone the property is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion: There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	☐	☐	☐	☒
3) The proposed project would modify or demolish a structure more than 50 years in age.	☐	☐	☐	☒
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	☐	☐	☐	☒
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership.

(2-4) The existing buildings at the project site are not eligible for listing as a historic resource, nor are categorized as an existing historic landmark. The existing buildings were constructed in 1976 for use as an automotive dealership.

(5) The proposal to rezone the property would not be in conflict with any policy or ordinance protecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: SD-7 and SD-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	☐	☐	☐	☒
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed stormwater runoff to be consistent with the type and intensity of development that would be permitted by this rezoning. The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
The application is a proposal to rezone the subject property from Planned Development Zone P-D(131) to the C-3 Zone. The appropriate mitigation to be applied to any future development of the site includes: FWQ-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	☐	☐	☐	☒
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	☐	☐	☐	☒
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	☐	☐	☒
6) The proposed project would violate water quality standards or waste discharge requirements.	☐	☐	☐	☒
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	☐	☐	☐	☒
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

(3-4) The proposed project is to rezone the property from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone. The site is outside of the 100-year flood zone as defined by the FEMA 2008 Flood Insurance Rate Maps (FIRM).

(5-8) Any future development would be subject to Development Plan Review by the Director and will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would eliminate parks or open space.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these polcies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion: There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The site is already developed with four existing buildings previously used as an automotive dealership.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion: There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial", which assumed solid waste generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☐	☐	☒
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☐	☐	☒
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

(2) The site is developed with four buildings previously used as an automotive dealership and is surrounded by existing urban uses. No schools exist or are proposed within one-quarter mile of the project site. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(3) The project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	[ ]	[ ]	[ ]	X
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.				

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. The project site is already developed with four buildings previously used as an automotive dealership.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1-2) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director.

(2-3) The project site is not in the vicinity of parks or riverside areas. No views into parks or riverside areas would be blocked or degraded from roadways or properties adjacent to the site.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☐	☐	☒
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☐	☐	☒

Discussion:

(1) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. Any future development would be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

(2) The site is developed with four buildings previously used as an automotive dealership, and is surrounded by urban uses. The project would not divide an established community.

(3) The proposed rezoning does not represent a conflict with any land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.

(4) The proposed rezoning is not subject to any habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☐	☐	☒
2) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☐	☐	☒
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☐	☐	☒

Discussion:

(1-3) The proposed project to rezone from Planned Development Zone P-D(131) to the C-3 Highway Commercial Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the C-3 Zone, subject to Development Plan Review by the Director. Any future development would be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: None

Traffic and Circulation:

None

Degradation of Air Quality:

None

Generation of Noise:

None

Effects on Agricultural Lands:

None

Increased Demand for Long-Term Water Supplies:

None

Increased Demand for Sanitary Sewer Services:

None

Loss of Sensitive Wildlife and Plant Habitat:

None

Disturbance of Archaeological/Historic Sites:

None

Increased Demand for Storm Drainage:

None

Flooding and Water Quality:

None

Increased Demand for Parks and Open Space:

None

Increased Demand for Schools:

None

Increased Demand for Police Services:

None

Increased Demand for Fire Services:

None

Generation of Solid Waste:

None

Generation of Hazardous Materials:

None

Geology, Soils, and Mineral Resources:

None

Energy:

None

Effects on Visual Resources:

None

Land Use and Planning:

None

Climate Change:

None

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-446

A RESOLUTION APPROVING THE 2011 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2011 City Council Meeting Calendar, **attached** hereto as **Exhibit "A"**, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City Council Calendar
2011

January 2011

4th	CANCELLED*
11th	Council Meeting (regular)
18th	NO MEETING
25th	Council Meeting (regular)

February 2011

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)

March 2011

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

April 2011

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	CANCELLED**

May 2011

3rd	Council Meeting (regular)
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)
31th	NO MEETING – 5th Tuesday

June 2011

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	NO MEETING
28th	Council Meeting (regular)

July 2011

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	NO MEETING

August 2011

3rd	Council Meeting (special)***
9th	Council Meeting (regular)
16th	NO MEETING
23rd	NO MEETING
30th	NO MEETING – 5th Tuesday

September 2011

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

October 2011

4th	Council Meeting (regular)
11th	Council Meeting (regular)
18th	NO MEETING
25th	Council Meeting (regular)

November 2011

1st	Council Meeting (regular)
9th	Council Meeting (special)****
15th	NO MEETING
22nd	CANCELLED*****
29th	NO MEETING – 5th Tuesday

December 2011

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	CANCELLED per MMC 2-1.01
27th	CANCELLED per MMC 2-1.01

*January 4th due to Winter Break
**April 26th due to Spring Break
***August 3rd Wednesday Meeting due to National Night Out on August 2nd
****November 9th Wednesday Meeting due to Election Day on November 8th
***** November 22nd due to Proposed Furlough

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-447

A RESOLUTION APPROVING AMENDMENT NO. 2 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH OMNI-MEANS, LTD. IN THE AMOUNT OF $29,340, FOR A TOTAL AMOUNT NOT TO EXCEED $144,120, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AMENDMENT #2 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT

WHEREAS, on December 12, 2007, by Resolution No. 2007-734, the Council approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. ("Consultant") for the preparation of various technical studies as well as on-call consultant services relating to the City's transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-735, the Council approved Task Order No. 1 to the Master Agreement with Omni-Means for the update of the streets portion of the Capital Facilities Fees Program (CFF), and

WHEREAS, on July 7, 2009, by Resolution No. 2009-280, the Council approved Amendment No. 1 to Task Order No. 1 to the Master Agreement with Omni-Means for the update of the streets portion of the Capital Facilities Fees Program, and

WHEREAS, the City desires to refine the initial scope of work to reflect the Community & Economic Development Department Planning Division's revised growth and land absorption schedules which reflect more realistic growth and development over the next twenty years instead of the General Plan's projections which are not likely to occur within the next twenty to thirty years;

WHEREAS, it is in the City's best interest to complete the streets update to the CFF program as there are a number of changes to the fee update that would not be

ratified and would leave the validity of the current fee outdated and inconsistent with current planning and proposed capital improvement planning, and

WHEREAS, there are sufficient appropriations in the CFF operating budget to fund the cost of the tracking system and to complete the update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment #2 to Task Order No. 1 to the Master Professional Services Agreement for Consultant Services with OMNI-MEANS, Ltd. for the update of the streets portion of the Capital Facilities Fees Program, in an amount not to exceed $29,340 is hereby approved.

IS IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment #2 to Task Order No. 1 to the Master Professional Services Agreement for Consultant Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-448

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 OPERATING BUDGET FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILTIES FEE PROGRAM AND APPROPRIATING $29,340, FROM CFF FUND 1390-140-0260-0242 TO MY ACCOUNT 1390-140-0266-0242

WHEREAS, the City has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure to serve development, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-736, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. for the preparation of various technical studies as well as on-call consultant services relating to the City's transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-737, the Council of the City of Modesto approved Task Order No. 1 to the Master Agreement for the preparation of the streets portion of the Capital Facilities Fee update, and

WHEREAS, on July 7, 2009, by Resolution No. 2009-2009-280, the Council of the City of Modesto approved Amendment No. 1 to Task Order No. 1 to the Master Agreement, and

WHEREAS, on October 26, 2010, by Resolution No. 2010-447, the Council of the City of Modesto approved Amendment No. 2 to Task Order No. 1 to the Master Agreement,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2010-2011 operating budget for the preparation of

the streets portion of the Capital Facilities Fee program and transfer $29,340 from 1390-140-0260-0242 to 1390-140-0266-0242 for professional services.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-449

A RESOLUTION APPROVING A PREQUALIFIED VENDOR LIST OF CONSULTATNTS FOR SURVEYING AND PLAN LINE DEVELOPMENT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS

WHEREAS, the Community and Economic Development Department anticipates developing several Capital Improvement Projects that require surveying and plan line development services that are beyond the City's current staffing levels and workload to accomplish in a timely manner, and

WHEREAS, Community and Economic Development Department has found it necessary to utilize a vendor list for surveying and plan line development services, and

WHEREAS, retaining prequalified consultants allows the division to have quick access to specific surveying and plan line development services when needed, and

WHEREAS, using experienced consultants provides a quick turnaround, which is essential for an efficient response to the large undertaking of projects, and

WHEREAS, the goal in having a vendor list is to promote project cost savings, which is a positive budget impact to the Capital Improvement Program, and

WHEREAS, all five consultant firms are located within Stanislaus County and are familiar with the layout of the City as well as City Standards, and

WHEREAS, all five consultant firms have established experience and were the most qualified consultants from those who submitted Statement of Qualifications, and

WHEREAS, City staff recommends approving the prequalified vendor list, and

WHEREAS, the selected consultant will be determined on a project basis once a scope of work and contract have been negotiated with the most qualified firm(s) from the vendor list,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified vendor list of consultants for surveying and plan line development services for three years, with the option of revising or renewing the vendor list after three years at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-450

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE AND INSTALLATION OF CISCO CATALYST 4500 SERIES SWITCHING EQUIPMENT FOR THE INFORMATION TECHNOLOGY DEPARTMENT TO TELCION COMMUNICATIONS GROUP, MODESTO, CA, FOR AN ESTIMATED TOTAL COST OF $48,579, AND AUTHORIZING THE CITY MANAGER TO ACCEPT $2,174 AS THE TRADE-IN VALUE OF TWO (2) CISCO CATALYST 4006 SWITCHES, TOWARDS THE PURCHASE OF SAID EQUIPMENT

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for Cisco Catalyst 4500 Series Switching Equipment, and

WHEREAS, the Purchasing Division issued RFB No. 1011-02 Cisco Catalyst 4500 Series Switching Equipment to eight (8) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Two (2) of the eight (8) prospective bidders were local vendors, and

WHEREAS, bids were formally opened in the City Clerk's office. Nine (9) companies chose to respond, two (2) of which were local vendors. All nine (9) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase and installation of Cisco switching equipment to Telcion Communications Group, Modesto, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase and installation of Cisco switching equipment to Telcion Communications Group, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, Modesto Municipal Code Section 8-3.207 states, "When replacing personal property belonging to the City, the Purchasing Manager is authorized to request quotations for trade-in allowances. Where the trade-in allowance is determined to be adequate and advantageous, the City Manager is authorized to accept said quotation. In those instances, the Purchasing Manager is authorized to make the purchase." Trade-in of Cisco 4006 switching equipment conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted for the purchase and installation of Cisco Catalyst 4500 Switching Equipment in Appropriation Unit: 7130-070-0744-5452,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase and installation of Cisco Catalyst 4500 Series switching equipment for the Information Technology Department to Telcion Communications Group, Modesto, CA, and authorizes the City Manager to accept $2,174 as trade-in value of two (2) Cisco Catalyst 4006 switches, towards the purchase of said equipment.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $48,579.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October 26, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-451

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE AND DELIVERY OF AGGREGATE BASE MATERIAL ¾" CLASS II VIRGIN GRADE FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, JENNINGS ROAD TERTIARY TREATMENT PLANT, TO DESTINATION ANYWHERE, INC., TRACY, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $75,187

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for aggregate base material, and

WHEREAS, the Purchasing Division issued RFB No. 1011-06 Aggregate Base Material ¾" Class II Virgin Grade to fifteen (15) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Eight (8) of the fifteen (15) prospective bidders were local vendors, and

WHEREAS, bids were formally opened in the City Clerk's office. Five (5) companies chose to respond, two (2) of which were local vendors. All five (5) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase and delivery of aggregate base material to Destination Anywhere, Inc., Tracy, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase and delivery of aggregate base material to Destination Anywhere, Inc., Tracy, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase and delivery of aggregate base material in Appropriation Unit: 6210-480-5214-0223.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase and delivery of aggregate base material for the Public Works Department, Water Quality Control Division, Jennings Road Tertiary Treatment Plant, to Destination Anywhere, Tracy, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $75,187.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October 26, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-452

Print

RESOLUTION AMENDING THE POSITION ALLOCATION FOR THE MODESTO POLICE DEPARTMENT TO ADD ONE ADMINISTRATIVE ANALYST II (EXEMPT) POSITION, ORGANIZATION 1901

WHEREAS, the Modesto Police Department eliminated an Administrative Analyst II (Exempt) position as part of the Department reductions in the Fiscal Year 2010/2011 budget, and

WHEREAS, the Fiscal Year 2010/2011 budget was adopted on July 6, 2010, with the elimination of an Administrative Analyst II (Exempt) position to occur at mid-year and would recognize a savings of $46,062 to the General Fund, and

WHEREAS, the Fiscal Year 2010/2011 budget was also adopted with grant funding from the Office of Traffic Safety (OTS) for a Community Service Officer position for three months, but it was scheduled to end on September 30, 2010, and

WHEREAS, the City's existing Financial Policies require Council to authorize the appropriation of all new revenue, and

WHEREAS, that position was then slated to be absorbed into the General Fund, and

WHEREAS, on August 10, 2010, Council approved accepting the OTS Grant Funding and the Police Department was awarded another year of grant funding from OTS to continue funding of the Community Service Officer position, and

WHEREAS, the General Fund will have a nine-month salary savings for the Administrative Analyst II (Exempt) position of approximately $50,680 (salary and benefits), and

WHEREAS, the Police Department is requesting to use the General Fund savings from Community Service Officer position to retain the Administrative Analyst II (Exempt) position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Position Allocation for the Police Department to add one Administrative Analyst II (Exempt) position, Organization 1901.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Position Allocation to add one Administrative Analyst II (Exempt).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-453

RESOLUTION AMENDING THE FISCAL YEAR 2010/2011 OPERATING BUDGET AUTHORIZING THE TRANSFER OF FUNDS FROM 0100-190-1966-0184 AND 0100-190-1966-0194 TO 0100-190-1901-0181 AND 0100-190-1901-0191 TO FUND THE ADMINISTRATIVE ANALYST II (EXEMPT) POSITION IN THE POLICE DEPARTMENT

WHEREAS, the Modesto Police Department eliminated an Administrative Analyst II (Exempt) position as part of the Department reductions in the Fiscal Year 2010/2011 budget, and

WHEREAS, the Fiscal Year budget was adopted on July 6, 2010, with the elimination of an Administrative Analyst II (Exempt) position to occur at mid-year, and would recognize a savings of $46,062 to the General Fund, and

WHEREAS, the Fiscal Year 2010/2011 budget was also adopted with grant funding from the Office Of Traffic Safety (OTS) for a Community Service Officer position for three months, but it was scheduled to end on September 30, 2010, and

WHEREAS, the City's existing Financial Policies require Council to authorize the appropriation of all new revenue, and

WHEREAS, that position was then slated to be absorbed into the General Fund, and

WHEREAS, on August 10, 2010, Council approved accepting the OTS Grant Funding and the Police Department was awarded another year of grant funding from OTS to continue funding of the Community Service Officer, and

WHEREAS, the General Fund will have a nine-month salary savings for the Administrative Analyst II (Exempt) position of approximately $50,680 (salary and benefits) as shown in **Exhibit A**, Budget Adjustment (**attached**),

WHEREAS, the Police Department is requesting to use the General Fund savings from Community Service Officer position to retain the Administrative Analyst II (Exempt) position,

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person	Julie Hendee	Council Action Date	
Telephone No.	572-9518	Resolution Number	
Department	Police Department		
		FY:	2010-11
Fund Title	0100 - General Fund	Transfer No	

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM					
					Traffic Safety
0100-190-1966-0184	1966-A	($201,057)	($34,935)	($235,992)	Salary Adjustment Decrease
0100-190-1966-0194	1966-A	($109,527)	($11,127)	($120,654)	Benefit Adjustment Decrease
			($46,062)		
TO					
					PD - Administration
0100-190-1901-0181	1901-A		$34,935	$34,935	Salary Adjustment Increase
0100-190-1901-0191	1901-A		$11,127	$11,127	Benefit Adjustment Increase
			$46,062		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

Organization 0100-190-1966 programmed funding to cover salary and benefits costs for one CSO for the period of October 2010 - June 2011 pending the expiration of a grant that ended on September 30, 2010. The Police Department following the adoption of the FY 2010-11 operating budget, was notified that it had received a subsequent grant that would cover the CSO's salary for this same time period. This budget adjustment is being made to decrease the salary and benefits programmed to offset that portion of a CSO's salary for the remainder of the fiscal year in Org. 1966 and transfer these funds to offset the costs of reinstating one Administrative Analyst II (Exempt) in Organization 0100-190-1901 that was due to be eliminated, effective January 1, 2011. This action will provide the necessary complement of funding to cover salary and benefit expenses (6 mos.) for the Admin. Analyst II through the end of the current FY.

AUTHORIZATION (check if required)	SIGNATURE	DATE
PUBLIC SAFETY BUSINESS SERVICES ANALYST		
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)		

TRANSFER NO.: _____

BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-454

RESOLUTION AMENDING THE FISCAL YEAR 2010/2011 OPERATING BUDGET ESTIMATING REVENUE OF $67,524 FROM ASSET FORFEITURES TO POLICE INVESTIGATIONS AND TRAINING FOR POLICE EQUIPMENT AND TRAINING

WHEREAS, the Modesto Narcotic Enforcement Team (MNET) is the primary narcotics unit within the City of Modesto responsible for handling all drug-related investigations, and

WHEREAS, MNET and the special Investigations Division (SID) utilize the ISD Fund to pay for the expenses that arise in prostitution and alcohol related investigations, and

WHEREAS, undercover operations equipment is crucial to accomplishing this task and our current equipment is worn out and needs to be replaced, and

WHEREAS, staff would like to recommend the transfer of funds in the amount of $67,524 from Asset Forfeiture Trust Fund to Police Investigations and Training for police equipment and training, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010/11 Operating Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-1921-0209	$ 2,500.00	Police Support Division
	0100-190-1941-0225	$65,024.00	Police Investigations Division

Revenue:

From:	0100-190-1961-7202	$67,524.00	Seized Forfeitures

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-455

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE SOUTH BAY REGIONAL PUBLIC SAFETY TRAINING CONSORTIUM AND THE MODESTO POLICE DEPARTMENT FOR IN-SERVICE TRAINING COURSES FOR POLICE AND OTHER CRIMINAL JUSTICE SYSTEM OCCUPATIONAL TRAINING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, In 1994, the South Bay Regional Public Safety Training Consortium was created by Evergreen Valley and Gavilan Colleges through a California Community College Chancellor's Office Grant in order to pool resources, reduce costs, and eliminate duplication of efforts, while at the same time committing to deliver high-quality training, and

WHEREAS, in 1995, a Joint Powers Agreement (JPA) was established to provide governance between South Bay and the member Community Colleges, and

WHEREAS, through the JPA, the colleges work with The Commission on Peace Officer Standards and Training (POST) that was established by the California Legislature in 1959 to set minimum selection and training standards for California law enforcement, and

WHEREAS, the Community Colleges, in turn serve as vehicles to establish course content, college credit, manage apportionment of funds amongst the participating agencies, and issue transcripts to the students, and

WHEREAS, the Modesto Police Department is required to comply with various mandated training requirements by federal and state law, to ensure proper knowledge, skills, and abilities by its employees to complete its mission, and

WHEREAS, this funding will allow the Department to have more flexibility in providing training, training material (e.g., books, projectors, training aids, etc.), or provide instruction for training, and

WHEREAS, South Bay will credit Modesto Police Department $1.50 per student contact hour or number of actual students, multiplied by the number of hours of attendance, and

WHEREAS, payment will be calculated at the conclusion of each course based on the actual and eligible attendance, and payments will be held in a secure account with South Bay Consortium, and

WHEREAS, payments will be made for eligible training materials or services directly, or may be made to the Modesto Police Department upon request, and

WHEREAS, the Safety & Communities Committee reviewed this item at its October 4, 2010 meeting, and

WHEREAS, the term of this Agreement will be July 1, 2010 to June 30, 2011, and may be renewed each year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the South Bay Regional Pulic Safety Trianing Consortium and the Modesto Police Department for in-service training courses for police and other criminal justice system occuaptional training.

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 October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-456

RESOLUTION APPROVING AN APPLICATION FOR A HABITAT CONSERVATION FUND RIPARIAN HABITAT GRANT IN THE AMOUNT OF $150,000 FOR THE RESTORATION OF 11 ACRES OF RIPARIAN HABITAT IN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY6 PARCEL PHASE 2

WHEREAS, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes, and

WHEREAS, the State of California Department of Parks and Recreation has been delegated the responsibility for the administration of the Habitat Conservation Fund (HCF) Program, setting up necessary procedures governing project application under the HCF Program, and

WHEREAS, said procedures established by the State of California 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 applicant will enter into a contract with the State of California to complete the project,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto that it hereby approves and authorizes the Parks, Recreation and Neighborhoods Department Director to file an application for the Tuolumne River Regional Park Riparian Habitat and:

1. Approves the filing of an application for the Habitat Conservation Fund Program; and

2. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the required match and sufficient funds to complete the project; and

3. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and

4. Certifies that the applicant has reviewed, understands, and agrees to the provisions contained in the contract shown in the grant administration guide; and

5. Delegates the authority to the Parks, Recreation and Neighborhoods Department Director to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the project.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

7. The delegation of authority will expire September 30, 2016.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-457

RESOLUTION APPROVING AN APPLICATION FOR A RECREATIONAL TRAILS PROGRAM GRANT IN THE AMOUNT OF $490,336 FOR THE DEVELOPMENT OF APPROXIMATELY 1,200 LINEAR FEET OF RIVERWALK TRAIL, INCLUDING THE CONSTRUCTION OF A FISHING DECK AND PEDESTRIAN BRIDGE IN THE TUOLU7MNE RIVER REGIONAL PARK GATEWAY PARCEL PHASE 2

WHEREAS, the "Safe, Accountable, Flexible, Efficient-Transportation Equity Act: A Legacy for Users" provides funds to the State of California for Grants to federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects, and

WHEREAS, the State of California Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing Project Application under the program, and

WHEREAS, said procedures established by the State of California 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 Applicant will enter into a Contract with the State of California to complete the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the Parks, Recreation and Neighborhoods Department Director to file an application for the Tuolumne River Regional Park Riverwalk, Phase 2 and:

1. Approves the filing of an Application for the Recreational Trails Program; and

2. Certifies that the Project is consistent with the Applicant's general plan or the equivalent planning document; and

3. Certifies that said Applicant has or will have available prior to commencement of any work on the Project included in this Application, sufficient funds to operate and maintain the Project; and

4. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and

5. Appoints the Parks, Recreation and Neighborhoods Department Director as agent to conduct all negotiations, execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

7. The delegation of authority will expire September 30, 2016.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-458

RESOLUTION APPROVING AN APPLICATION FOR A LAND AND WATER CONSERVATION FUND GRANT TO FUND PAMELA MONTEROSSO TRAILHEAD SHADE STRUCTURE PROJECT

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, the proposed Pamela Monterosso Trailhead Shade Structure Project is consistent with the most recent *California Outdoor Recreation Plan (*CORP*)*; and

WHEREAS, the Project must be compatible with the land use plans of those jurisdictions immediately surrounding Project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby approves and authorizes the Parks, Recreation and Neighborhoods Department Director, to file an application for the *Pamela Monterosso Trailhead Shade Structure Project*, and:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance; and
2. Agrees to abide by SECTION 6(F)(3) of Public Law 88-578 which states "No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location."
3. Certifies that said agency has matching funds from eligible source(s) and can finance 100 percent of the project, which up to half may be reimbursed; and
4. Certifies that the project is compatible with the land use plans of those jurisdictions immediately surrounding the Project; and
5. Appoints the Parks, Recreation and Neighborhoods Department Director 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.
6. The delegation of authority will expire October 30, 2016.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-459

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE ADMINISTRATIVE BUDGET FOR THE NORTH VALLEY REGIONAL RECYCLED WATER PROJECT BY TRANSFERRING $20,000 FROM WASTEWATER FUND RESERVES TO CAPITAL IMPROVEMENT PROJECT (6210-430-B119)

WHEREAS, on January 12, 2010, the Council, by Resolution No. 2010-016, approved moving forward with a Regional Recycled Water Delivery System Feasibility Study (feasibility study) in partnership with Del Puerto Water District (DPWD), and

WHEREAS, on April 27, 2010, the Council, by Resolution No. 2010-149, approved an amendment to the Cost Sharing Agreement with DPWD for the City to front fund the expenses related to the cost of the feasibility study, up to $100,000, and

WHEREAS, the proposed project has expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners, and is now known as the North Valley Regional Recycled Water Project (NVRRWP) and is truly regional in scope, and

WHEREAS, On April 27, 2010, the Council, by Resolution No. 2010-153, approved a Memorandum of Understanding (MOU) with the cities, County, and DPWD establishing a collaborative partnership to explore the benefits of water reuse, the expansion of existing recycled water programs, and the development of a new recycled water program in the North Valley region, and

WHEREAS, the feasibility study and public outreach efforts are intended to move the NVRRWP forward to achieve authorization and receive federal funding, and

WHEREAS, the NVRRWP MOU sets in place a process to administer the project and the City of Modesto is working with the Cities of Turlock and Ceres, the DPWD, and Stanislaus County as the NVRRWP Administrative Agency, and

WHEREAS, the MOU also provides a mechanism for cost sharing to cover project administrative and related expenses, and

WHEREAS, to continue the process, it is necessary to fund the following tasks at a total estimated cost of $20,000: 1) Project administration costs ($14,000); 2) Project website development and domain name ($3,000); and 3) Analysis of project economic impacts through IMPLAN model ($3,000), and

WHEREAS, the Fiscal Year 2010-2011 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 Capital Improvement Program budget in order to front fund the budget for the North Valley Regional Recycled Water Project by transferring $20,000 from Wastewater Fund Reserves to Capital Improvement Project (6210-430-B119) as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: [illegible]
Extension No: [illegible]
Department: UP&P

FY: 10-11

Date Prepared: [illegible]

Fund/Acct/Org/Object	Type Entry	Current Budget	Increase (Decrease)	Revised Budget	Description of Adjustment
DEPARTMENT ID REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM					
11-6210-8006-80008-8005	62HDR	[illegible]	[illegible]	[illegible]	[illegible]
TO					
MY-6210-8006-81129-8010	BEPO	[illegible]	[illegible]	[illegible]	[illegible]
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This is a request to create the NVRRWP budget to fund staff costs to develop a website and [illegible] for an IMP. AN amendment to the Lease [illegible] of the Pacific. The City of Modesto, as the Administrative Agency, will fund these costs in order to [illegible] with these projects. The City of Turlock and Ceres will reimburse the City of Modesto for their portion of these costs. These costs will be funded from [illegible] through Wastewater Land Reserves.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR (Public Works)	[signature]	[illegible]
DEPARTMENT DIRECTOR (UP&P)	[signature]	[illegible]
DIRECTOR OF FINANCE		
CITY MANAGER		

TRANSFER NO.

BY DATE:

PW_AT winterfund Template 7-26-06

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-460

RESOLUTION ACCEPTING THE WORK BY PACIFIC MECHANICAL CORPORATION, INC. FOR THE "PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $20,648,415

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Phase 1A Tertiary Wastewater Treatment Facility project has been completed by Pacific Mechanical Corporation, Inc., in accordance with the contract agreement dated September 23, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Phase 1A Tertiary Wastewater Treatment Facility project is hereby accepted as complete from said contractor Pacific Mechanical Corporation, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $20,648,415.00 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PRINT

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-461

RESOLUTION ADOPTING AN INCREASE TO CURRENT JAIL AND HIGH RISE INSPECTION FEES

WHEREAS, in 2009, the Fire Prevention Bureau conducted 902 annual fire and life safety business inspections. Of the 902 inspections approximately 652 are State mandated by the California Health & Safety Code, and

WHEREAS, the remaining 250 inspections were for businesses that pose a high life safety risk such as assembly occupancies and fireworks booths, and

WHEREAS, the California Fire Code authorizes the Fire Chief to issue permits for these types of occupancies, and

WHEREAS, since annual inspections are not part of the development process, no fees have ever been collected for this service with the exception of jails and high rise buildings, and

WHEREAS, this fee was last updated in 1990, and

WHEREAS, existing jail and high rise fees are increasing from $46.00 per hour to $56.00 per hour, and

WHEREAS, a duly noticed Public Hearing was held by the Council on October 26, 2010, at 5:30p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street Place, Modesto, California, to consider approval of the fee increase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to current jail and high rise fees.

RESCINDED

JUL 10 2018

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2018-296

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PRINT

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-462

RESOLUTION ADOPTING AN INCREASE TO CURRENT FIREWORKS BOOTH PERMIT FEES

WHEREAS, in 2009, the Fire Prevention Bureau conducted 902 annual fire and life safety business inspections. Of the 902 inspections approximately 652 are State mandated by the California Health & Safety Code, and

WHEREAS, the remaining 250 inspections were for businesses that pose a high life safety risk such as assembly occupancies and fireworks booths, and

WHEREAS, the California Fire Code authorizes the Fire Chief to issue permits for these types of occupancies, and

WHEREAS, since annual inspections are not part of the development process, no fees have ever been collected for this service with the exception of jails and high rise buildings, and

WHEREAS, this fee was last updated in 1990, and

WHEREAS, fireworks booth permit fees will increase from $50.00 to $111.00, and

WHEREAS, a duly noticed Public Hearing was held by the Council on October 26, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street Place, Modesto, California, to consider approval of the fee increase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to current fireworks booth permit fees.

RESCINDED
JUL 10 2018
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2018-296

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PRINT

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-463

RESOLUTION APPROVING A FEE STRUCTURE FOR "SPECIAL INSPECTIONS/OCCUPANCY EVALUATION" FOR BUSINESSES THAT DO NOT REQUIRE AN INSPECTION BUT REQUEST AN INSPECTION

WHEREAS, in 2009, the Fire Prevention Bureau conducted 902 annual fire and life safety business inspections. Of the 902 inspections approximately 652 are State mandated by the California Health & Safety Code, and

WHEREAS, the remaining 250 inspections were for businesses that pose a high life safety risk such as assembly occupancies and fireworks booths, and

WHEREAS, the California Fire Code authorizes the Fire Chief to issue permits for these types of occupancies, and

WHEREAS, since annual inspections are not part of the development process, no fees have ever been collected for this service with the exception of jails and high rise buildings, and

WHEREAS, this fee was last updated in 1990, and

WHEREAS, in an effort to recover cost for services, the Fire Prevention Bureau is requesting the following user fees program that is consistent with the Mayor's budget proposal:

1. Special Inspection/Occupancy Evaluation: This fee is intended to recover cost for inspection request on facilities that normally do not require an inspection. This often occurs when an insurance company requires a fire safety inspection report from a client. Traditionally the Fire Department has conducted these inspections at no charge. The proposed fee is $109.00 which includes one re-inspection, and

RESCINDED
JUL 10 2018
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2018-296

WHEREAS, a duly noticed Public Hearing was held by the Council on October 26, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street Place, Modesto, California to consider approval of the fee increase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a fee structure for "special inspections/occupancy evaluation" for businesses that do not require an inspection but request an inspection.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PRINT

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-464

RESOLUTION APPROVING A FIRE CODE PERMIT AND INSPECTION PROGRAM FEE TO RECOVER COSTS ASSOCIATED WITH HEALTH & SAFETY CODE INSPECTIONS OF STATE MANDATED OCCUPANCIES, AND THE ISSUANCE OF OPERATIONAL USE PERMITS AS OUTLINED IN THE CALIFORNIA FIRE CODE

WHEREAS, in 2009, the Fire Prevention Bureau conducted 902 annual fire and life safety business inspections. Of the 902 inspections approximately 652 are State mandated by the California Health & Safety Code, and

WHEREAS, the remaining 250 inspections were for businesses that pose a high life safety risk such as assembly occupancies and fireworks booths, and

WHEREAS, the California Fire Code authorizes the Fire Chief to issue permits for these types of occupancies, and

RESCINDED
JUL 10 2018
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2018-296

WHEREAS, since annual inspections are not part of the development process, no fees have ever been collected for this service with the exception of jails and high rise buildings, and

WHEREAS, this fee was last updated in 1990, and

WHEREAS, in an effort to recover cost for services, the Fire Prevention Bureau is requesting the following user fees program that is consistent with the Mayor's budget proposal:

1. Fire Code Permit – Annual Renewal: Fire Code permits are typically issued for operations, processes, and/or occupancies that present a high life or property hazard. We propose to establish a program fee to recover the cost for employee's time expended on inspections of assembly occupancies. The Fire Department has prioritized these inspections based on life safety risk analysis and performed inspections according to available staffing at no cost to the businesses. The proposed fee is $109.00 which includes one re-inspection.

2. Annual Apartment Inspections: The majority of our State mandated inspections are for apartment complexes. The State defines an apartment

complex as: residential occupancies containing sleeping units of more than two dwelling units where the occupants are primarily permanent in nature. Currently there are 594 complexes identified in the City of Modesto that meet this definition. The proposed fee structure is as follows:

3 - 20 Units $55.00
21 - 60 Units $159.00
61 - or more $289.00

All include one re-inspection, and

WHEREAS, a duly noticed Public Hearing was held by the Council on October 26, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street Place, Modesto, California, to consider approval of the fee increase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fire Code Permit and Inspection Program Fee to recover costs associated with Health & Safety Code inspections of State mandated occupancies, and the issuance of operational use permits as outlined in the California Fire Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PRINT

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-465

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 GENERAL FUND OPERATING BUDGET TO INCLUDE AN ESTIMATED $101,192 INCREASE IN ANNUAL REVENUE IN 0100-180-1822-4156

WHEREAS, in 2009, the Fire Prevention Bureau conducted 902 annual fire and life safety business inspections. Of the 902 inspections approximately 652 are State mandated by the California Health & Safety Code, and

WHEREAS, the remaining 250 inspections were for businesses that pose a high life safety risk such as assembly occupancies and fireworks booths, and

WHEREAS, the California Fire Code authorizes the Fire Chief to issue permits for these types of occupancies, and

WHEREAS, since annual inspections are not part of the development process no fees have ever been collected for this service with the exception of hotels and high rise buildings, and

RESCINDED
JUL 10 2018
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2018-296

WHEREAS, this fee was last updated in 1990, and

WHEREAS, in an effort to recover cost for services, the Fire Prevention Bureau is Requesting the following user fees program that is consistent with the Mayor's budget proposal:

1. Fireworks Booth: Each year the Fire Department issues approximately 70 permits for fireworks booths throughout the City of Modesto. The permit process starts on April 1st, and ends on July 4th. The current fee of $50.00 was established in 1993, the proposed fee is $111.00.

2. Special Inspection/Occupancy Evaluation: This fee is intended to recover cost for inspection request on facilities that normally do not require an inspection. This often occurs when an insurance company requires a fire safety inspection report from a client. Traditionally the Fire Department has conducted these inspections at no charge. The proposed fee is $109.00 which includes one re-inspection.

3. Fire Code Permit Annual Renewal: Fire Code permits are typically issued for operations, processes, and/or occupancies that present a high life or property hazard. We propose to establish a program fee to recover the cost for employee's time expended on inspections of assembly occupancies. The Fire Department has prioritized these inspections based on life safety risk analysis and performed inspections according to available staffing at no cost to the businesses. The proposed fee is $109.00 which includes one re-inspection.

4. Annual Apartment Inspections: The majority of our State mandated inspections are for apartment complexes. The State defines an apartment complex as: residential occupancies containing sleeping units of more than two dwelling units where the occupants are primarily permanent in nature. Currently there are 594 complexes identified in the City of Modesto that meet this definition. The proposed fee structure is as follows:
   3 – 20 Units $55.00
   21 – 60 Units $159.00
   61 – or more $289.00
   All include one re-inspection, and

WHEREAS, a duly noticed Public Hearing was held by the Council on October 26, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street Place, Modesto, California, to consider approval of the fee increase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 General Fund Operating Budget is hereby amended to account for an annual increase in fee revenues.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of October, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-466

Print

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2010-2011 budgets have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT

An adjustment is necessary to reduce appropriations by $1,104 in Capital Improvement Project E006, Lime Green Signs and close the account. Additionally, this adjustment will reduce the transfer from the Special Gas Tax Fund in the amount of $110.

During the FY2010-11 budget development salary and benefit costs relating to the movement of an Office Supervisor position from Organization 1401 (Building Safety) to Organization 1400 (CEDD Admin) were inadvertently reduced. An adjustment is necessary to transfer $75,394 from General Fund Reserves to Salaries and Benefits in Building Safety to correct their budget.

An adjustment is necessary to move funds in the amount of $30,000 from CFF Reserves to Capital Improvement Project (CIP) H465, Carpenter Road Bridge Seismic Retrofit-Design, to complete the design phase of the project and provide funding for design support services during construction. This request was approved by the CIP Taskforce on June 22, 2010.

FINANCE

An adjustment in the amount of $11,090 is necessary to increase salaries for a part-time Account Clerk in the Accounts Payable Division (Org 1222) of Finance. A 100% of this position will be charged to the NSP2 Administration Organization which will generate service credit revenue to Accounting to offset the increased expense.

An adjustment in the amount of $156,080 is necessary to increase salaries for overtime, out-of-class pay and temporary labor in the Accounting (1222), Purchasing (1232), Stores (1272), Cashiering (Org 5021), Business License (1224) and Accounts Receivable (1225) Divisions in Finance for costs related to the ERP project. Funding will be transferred from the Information Technology ERP budget to cover the additional salary costs to ensure backfill resources are available for the staff members who are working on the ERP project.

INFORMATION TECHNOLOGY

An adjustment is necessary to transfer $316,000 from the Information Technology Investment Fund (7131) to the Information Technology Fund (7130) to fund the procurement of Enterprise Resource Planning services with Gartner Consulting that occurred in FY2007-08. This transfer was budgeted in FY2007-08 under Resolution 2008-051, but the funds were never transferred.

PARKS, RECREATIONS AND NEIGHBORHOODS

An adjustment is necessary to decrease the HOME Program Fund (1170), Organization 3259 (HOME – Direct Services) by $840,240 and increase the budget in a newly created multi-year Organization 3269 (HOME-Archway Commons) in the same amount of $840,240. The creation of the multi-year organization and movement of budget is necessary due to the period of time the project will take to get developed. The funds were provided to EAH Housing by Resolution 2009-392 to fund pre-development activities.

An adjustment is necessary to transfer $80,000 of Community Development Block Grant (CDBG) funds from Organization 3254, Direct Services Non-Housing, to a newly established Organization 3264, CDBG Public Service. This will allow CDBG Public Service grant funds for eligible Recreation Programs to be identified for audit and draw purposes.

Each year, Modesto City Schools contracts with the City of Modesto to provide after-school programs at various elementary schools throughout the school district. The contract for Fiscal

Year (FY) 2010-11 was recently approved by both the school district and the City. The total cost of the after-school program is $393,174.13 of which $332,674.13 is reimbursed by the school district. The City's FY 2010-11 General Fund budget, as adopted, included $136,000 in projected revenue and expenses for the after-school program. This budget adjustment updates the budget by recognizing $196,674.13 in unbudgeted revenue and expenses related to the after-school programs.

POLICE DEPARTMENT

An adjustment is necessary to create a transfer of $54,680 from the General Fund (0100) to the ARRA – Public Safety Fund (0415) in Fiscal Year 2009-10. While the Cops Hiring Recovery Program Grant provides for entry level officer expense, the City has officers at a higher rate than entry level in the fund whose additional expense must be subsidized.
*This item was reviewed and referred to Council for approval at the August 11, 2010 Finance Committee Meeting.

PUBLIC WORKS/UTILITY PLANNING & PROJECTS

An adjustment is necessary to transfer $24,555 from the Surface Transportation Fund, Proposition 1B, (0710) into the Streets CFF project H424, Pelandale/Sisk/SR99 On-Ramp Improvements in the Streets Capital Facility Fund (1410). This transfer will add funds to the Construction object (6040) within the project and allow for the payment of construction expenses at the request of the Streets Division for work out side of the CFF project limits. A night paving permit by CalTrans was required so the work was deemed more cost effective to be performed during the CIP construction. Since the expenses are Proposition 1B eligible the Surface Transportation Fund (STF) will transfer the amount into the project. This action will aid the STF in spending its Proposition 1B funds before the spending deadline of June 30, 2011.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-467

RESOLUTION APPROVING AGREEMENT TO NEGOTIATE EXCLUSIVELY WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS AS THE DEVELOPER FOR THE PROJECT LOCATED AT 412/416 DOWNEY AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, on December 10, 2008, the Redevelopment Agency (RDA) purchased 416 Downey Avenue utilizing Set Aside funds, and

WHEREAS, on February 28, 2008, the City purchased 412 Downey Avenue utilizing Community Development Block Grant (CDBG) funds, and

WHEREAS, on February 9, 2010, staff released an Request for Proposals (RFP) soliciting affordable housing developers for this project, and

WHEREAS, the scope of the RFP included a maximum of 11 dwelling units with $500,000 in City HOME entitlement funds to be used in the construction of the project, and

WHEREAS, additional funding was anticipated from the RDA's Housing Set-Aside fund; however, with the recent court decision regarding RDA payments to the State of California, there will be no additional RDA dollars available for this project, and

WHEREAS, on June 22, 2010, the City Council approved the Housing Authority of the County of Stanislaus as the selected developer, and

WHEREAS, as part of the approval, staff was to draft an Agreement to Negotiate Exclusively (ANE) and bring it back to the Council for final approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement to Negotiate Exclusively with the Housing

Authority of the County of Stanislaus as the Developer for the project located at 412/416 Downey Avenue.

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute the Agreement and any related documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-468

RESOLUTION APPROVING THE AWARD OF THE JENNINGS ROAD RANCH LEASE TO WENDEL TRINKLER, JR., FOR A 10-YEAR TERM BEGINNING JANUARY 1, 2011, WITH THREE FOUR-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE

WHEREAS, on March 22, 2010, the City of Modesto Finance Committee authorized Wastewater Quality Control Division (WQC) staff to issue a request for Statement of Qualifications (SOQ) for the Jennings Road Ranch Lease (Lease), and

WHEREAS, the SOQ was sent to eight interested organizations as well as posted on the City of Modesto's Purchasing website and staff also sent fliers to the California Farm Bureaus in Fresno, San Joaquin and Stanislaus Counties for them to post at their offices and/or web sites, and

WHEREAS, on May 21, 2010, staff held a mandatory Pre-Submittal Conference at the Jennings Ranch where a total of 23 people attended, and

WHEREAS, on June 9, 2010, WQC received six (6) SOQ's for the Lease, and

WHEREAS, after reviewing all of the SOQ's submitted, all six proposers were invited to send a response to the Request for Proposals (RFP) for the lease, and

WHEREAS, on July 9, 2010, WQC received five (5) responses to the RFP, and

WHEREAS, the proposals were reviewed by Laura Anhalt, WQC Plant Manager, Kathryn Gies, P.E. from West Yost Associates and Richard Smith from RBSmith Consulting, and

WHEREAS, after review and discussion of the proposals, it was determined that WQC would interview the top three (3) proposals and on August 5, 2010, WQC interviewed Wendel Trinkler, Jr., Pahrump Heifer Ranch, and Alamo Farms, and

WHEREAS, based on the proposals submitted and the proposed lease rate per acre, it was determined that Wendel Trinkler, Jr., was the best choice for leasing of the Jennings Road Ranch, and

WHEREAS, WQC and Lessee have reviewed the lease and proposed changes have been approved by the City Attorney's office, and

WHEREAS, the lease rate of $200 per acre, or $494,000 annually, is the agreed upon amount with the new lease starting January 1, 2011, through December 31, 2021, with three four-year term extensions, as agreed upon by the City and Lessee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of the Jennings Road Ranch Lease to Wendel Trinkler, Jr., for a 10-year term beginning January 1, 2011, with three four-year extension options, at the sole discretion of the City, at a rental rate of $200 per acre for an annual total of $494,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-469

Print

RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED SEPTEMBER 2009 FOR THE SHACKELFORD SEWER CROSSING PROJECT AS COMPLETE

WHEREAS, the existing sewer pipe (siphon) across the Tuolumne River has reached the end of its useful design life as it is nearly 40 years old and has not been maintained during its life, and

WHEREAS, this project will replace the existing 18-inch siphon with two 18-inch siphons which will connect to an existing inlet structure, and

WHEREAS, on February 10, 2009, by Resolution No. 2009-074, Council approved an agreement with O'Dell Engineering, Inc. to complete the 35% design services for the Shackelford Sewer Crossing project and summarize the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the PDR reviewed three methods of proposed construction alternatives to crossing the river: open-cut, micro-tunneling and Horizontal Directional Drilling (HDD), and

WHEREAS, after evaluating the different alternatives, the PDR recommended the construction of two new 18-inch siphons by HDD with each siphon being capable of handling the design flow individually, thus creating a redundant system that would provide an alternative in the event of failure of the main siphon, and

WHEREAS, HDD also has the advantage of less rigorous permitting with resource agencies, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Shackelford Sewer Crossing project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated September 2009 for the Shackelford Sewer Crossing project as complete.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-470

Print

RESOLUTION APPROVING AN AGREEMENT WITH O'DELL ENGINEERING, INC. FOR FINAL DESIGN SERVICES FOR SHACKELFORD SEWER CROSSING PROJECT IN AN AMOUNT NOT TO EXCEED $211,189 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $21,119 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $232,308, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing sewer pipe (siphon) across the Tuolumne River has reached the end of its useful design life as it is nearly 40 years old and has not been maintained during its life, and

WHEREAS, this project will replace the existing 18-inch siphon with two 18-inch siphons which will connect to an existing inlet structure, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, six (6) Request for Proposals (RFPs) were sent to the short-listed local design firms approved by Council, and

WHEREAS, the proposals were submitted and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Wastewater Operations staff, and

WHEREAS, following the consultant interviews, the Selection Committee determined that the engineering team of O'Dell was the most qualified to prepare the Preliminary Design Report (PDR) of the Shackelford Area Sanitary Sewer Crossing of the Tuolumne River, and

WHEREAS, in addition, O'Dell's team included Bennett Trenchless, a sub-consultant whose expertise is trenchless design, and

WHEREAS, on February 10, 2009, by Resolution No. 2009-074, Council approved an agreement with O'Dell Engineering, Inc. to complete the 35% design services for the Shackelford Sewer Crossing project and summarize the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the PDR reviewed three methods of proposed construction alternatives to crossing the river: open-cut, micro-tunneling and Horizontal Directional Drilling (HDD), and

WHEREAS, after evaluating the different alternatives, the PDR recommended the construction of two new 18-inch siphons by HDD with each siphon being capable of handling the design flow individually, thus creating a redundant system that would provide an alternative in the event of failure of the main siphon, and

WHEREAS, HDD also has the advantage of less rigorous permitting with resource agencies, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Shackelford Sewer Crossing project, and

WHEREAS, this Final Design Services Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with O'Dell as the City does not have the staffing level or subject matter expertise to complete the Final Design Services for the Shackelford Sewer Crossing project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with O'Dell Engineering, Inc. for final design services for the Shackelford Sewer Crossing project an amount not to exceed $211,189 for the identified scope of services, plus $21,119 for additional services (if needed), for a maximum total amount of $232,308.

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 3rd day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-471

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE BUS MAINTENANCE FACILITY, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH EMJ CORPORATION OF SACRAMENTO, CA IN THE AMOUNT OF $10,784,000 FOR THE BUS MAINTENANCE FACILITY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Bus Maintenance Facility project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Bus Maintenance Facility project were opened at 11:00 a.m. on August 24, 2010, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $10,784,000 received from EMJ Corporation be accepted as the lowest responsible bid and the contract be awarded to EMJ Corporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Bus Maintenance Facility project, accepts the bid of EMJ Corporation of Modesto, CA in the amount of $10,784,000, and awards EMJ Corporation the contract for the Bus Maintenance Facility project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-472

RESOLUTION ACCEPTING THE CAPITAL FACILITIES FEES ANNUAL REPORT FOR FISCAL YEAR 2009-2010, AND MAKING FINDINGS RELATING TO EACH OF THE FEE CATEGORIES

WHEREAS, Section 8-1.904 of the Modesto Municipal Code authorizes the City Council to establish Capital Facilities Fees ("CFF") by resolution, and

WHEREAS, California Government Code Sections 66001 and 66006 require that the City make certain information available to the public and findings relating to the necessity of collecting fees for new development, and

WHEREAS, the City is collecting CFF for the purpose of constructing pubic improvements that will be needed as a result of new development, and

WHEREAS, by Resolution 2010-272, the City Council established the nexus for fees imposed by each land use, and

WHEREAS, the Fire CFF Fund was established to accrue funds for the construction of additional fire stations, fire vehicles, and a new training station, and

WHEREAS, the Police CFF Fund was established to accrue funds for additional policing needs including an additional station, police cars and associated equipment, a northeast area precinct, a training facility, a computer aided dispatch system, and an expanded radio system, and

WHEREAS, the Parks and Recreation CFF Fund was established to accrue funds for the development of additional regional parks, community centers, neighborhood parks, expansion of McClure museum, and

WHEREAS, the General Government CFF Fund was established to accrue funds for the expansion of City Hall, expansion of the City's corporation yards, and technology expansions, and

WHEREAS, the Air Quality Mitigation CFF Fund was established to accrue funds to assist in the reduction of automobile travel, specifically for the development of park and ride lots, Class I Bike Trails, and

WHEREAS, the Streets CFF fund was established to accrue funds for arterial roadways, intersections, expressways, freeway interchanges and associated landscaping, and

WHEREAS, the Transit CFF fund was established to accrue funds for the expansion of the City's transit system including additional buses and their associated facilities, and

WHEREAS, the CFF program is a pay-as-you go program that enables improvements to be constructed when enough monies have been accumulated, and

WHEREAS, the Fiscal Year 2009-2010 Capital Facilities Fee Report has been completed and is on file with the City Clerk and is **attached** as **Exhibit "A"**, and

WHEREAS, a public hearing at the City Council in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California was set for November 3, 2010, to enable the public to have the opportunity to comment on the CFF collected,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the Capital Facilities Fee program, set forth in

City Council Resolution No. 2010-272, and incorporated herein by reference, is a necessary program to fund future infrastructure needed for new development.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the CFF revenue anticipated for the full development of infrastructure improvements for new development has not been fully collected to complete the financing of incomplete improvements. It is presently anticipated that there will be no regular sources of funding to develop CFF infrastructure improvements apart from CFF collections.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the anticipated dates for the full collection of fees is unknown at this time as fees are based on development activity which is not controlled by the City.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for constructing and/or purchasing additional fire stations, fire vehicles, and a new training station, have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for constructing and/or purchasing an additional police station, police cars and associated equipment, a northeast area precinct, a training facility, a computer aided dispatch system, and an expanded radio system, have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the development of additional regional parks, community centers, neighborhood parks, and the expansion of McClure museum have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the expansion of City Hall, expansion of the City's corporation yards, and additional technology expansions is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the reduction of automobile travel, specifically for the development of park and ride lots and Class I Bike Trails is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for arterial roadways, intersections, expressways, freeway interchanges and all of their associated landscaping is not yet known, but there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the expansion of the transit system is not yet known, but

there is still a need as outlined in Resolution No. 2010-272, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2009-2010 Capital Facilities Fees Report as described in **Exhibit "A", attached** hereto and incorporated herein by reference.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Attachment 1

City of Modesto

CAPITAL FACILITIES FEES ANNUAL REPORT

Fiscal Year 2009-2010

Prepared By:

Community & Economic Development
Infrastructure Financing Program

October 1, 2010

Introduction

This CFF Annual Report for Fiscal Year 2009-2010 has been prepared as an annual requirement by the State of California in accordance with Section 66006 of the Government Code. The City of Modesto collects Capital Facilities Fees (CFF) on new development to fund infrastructure improvements that are necessary to accommodate new growth.

State law requires that the City make the following information available to the public for each separate fund on an annual basis, and that the City Council review that information at a public meeting. The law requires the report to include the following information for each individual fund for the fiscal year:

- The beginning and ending balance of the fund
- The amount of the fees collected and interest earned
- The amount of refunds made
- A description of each interfund transfer or loan made by the fund
- Identification of each public improvement on which fees were expended and the amount expended on each improvement

If the agency no longer needs the funds for the purposes collected, or if the agency fails to make required findings, or perform certain administrative tasks prescribed by AB 1600, the agency may be required to refund, on a prorated basis to owners of the properties upon which the fees for the improvement were imposed, the monies collected for that project and any interest earned on those funds.

Beginning and Ending Balance of Funds, Amount of Fees Collected and Interest Earned

Table 1 "Combining Statement of Revenues, Expenditures, and Changes in Fund Balances" outlines the beginning and ending balance of each fund for Fiscal Year 2009-2010. Detailed expenditures are shown under each fund description. Once all maps that were vested prior to 2003 or that have an associated Development Agreement have been completed or expire, revenue for those programs will no longer be generated. Furthermore, since this is a pay-as-you-go program, the City must accrue enough revenue to construct a project. This results in an "aging" of fund balances. The aging or accumulation occurs until enough revenue is generated to construct a project.

Refunds

There were a total of two CFF refunds, which are outlined in Table 2 below. Refunds are not uncommon and can occur for a variety of reasons such as a property owner paid the fees but later decided not to build a project or due to an overpayment of CFF.

Table 2. 2009-2010 Capital Facilities Fess Payment Refunds

Date	Applicant	Permit Number	Amount	Reason
4/22/2010	Modesto Toyota	BLD 2008-61809	$80,357.55	Not Constructed.
6/3/2010	Preston Construction	BLD 2009-72257 BLD 2009-72346 BLD 2010-80519 BLD 2010-80521	$15,228.00	Difference in 2003 and 2006 CFF refunded per City Council Resolution No. 2010-197.
		Total	**$95,585.55**	

Table 1. Capital Facilities Funds Combining Statement of Revenues, Expenditures and Changes in Fund Balance (Year Ended: June 30, 2010)

	1310 Police Dept Cap fees	1320 Fire Dept Cap fees	1350 Parks Dept Cap fees	1380 City Hall Expansion Cap fees	1390 Cap Fees Admin	1410 Streets Cap Fees	1420 Public Trans Cap Fees	1430 Air Quality Cap fees	Total Capital Facilities
REVENUES:									
Intergovernmental						$ 423,473			$ 423,473
Charges for services	$ 34,967	$ 11,669	$ 85,968	$ 20,117	$ 19,348	1,047,367	$ 11,147	$ 19,449	1,250,032
Interest and rent	2,409	(28,553)	57,691	4,508	2,653	283,524	788	6,571	329,591
Net change in fair value of investments	2,205	(229)	35,043	3,442	1,815	166,004	475	3,750	212,505
Miscellaneous						45			45
Total revenues	39,581	(17,113)	178,702	28,067	23,816	1,920,413	12,410	29,770	2,215,646
EXPENDITURES:									
Current:									
General government					209,539				209,539
Highways and streets						7,274,188			7,274,188
Public works									
Parks and recreation			370,845						370,845
Public safety									
Capital outlay:									
Total expenditures			370,845		209,539	7,274,188			7,854,572
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES	39,581	(17,113)	(192,143)	28,067	(185,723)	(5,353,775)	12,410	29,770	(5,638,926)
OTHER FINANCING SOURCES (USES):									
Transfers in									
Transfers out	(228,000)	(100,000)	(233,720)	(450,000)				(43,000)	(1,054,720)
Sale of assets									
TOTAL OTHER FINANCING SOURCES (USES)	(228,000)	(100,000)	(233,720)	(450,000)				(43,000)	(1,054,720)
EXCESS (DEFICIENCY) OF REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES	(188,419)	(117,113)	(425,863)	(421,933)	(185,723)	(5,353,775)	12,410	(13,230)	(6,693,646)
FUND BALANCES, July 1	506,055	$ (947,408)	$ 5,897,801	$ 1,048,421	$ 344,608	$ 32,167,332	$ 85,313	$ 691,045	$ 39,793,167
FUND BALANCES, June 30	$ 317,636	$ (1,064,521)	$ 5,471,938	$ 626,488	$ 158,885	$ 26,813,557	$ 97,723	$ 677,815	$ 33,099,521

Revised 10-11-10 / Unaudited

Attachment 2 2009-2010 CFF Annual Report

Revenues

Table 3 "Seven Year Revenue History of CFF Funds" illustrates the revenue over a seven year period. As noted, since these funds are based on new development, it is anticipated that the revenues will continue to decline over the next two years at least as development continues to wane. Overall, revenues decreased from the fiscal year 2009 to fiscal year 2010 by 57%.

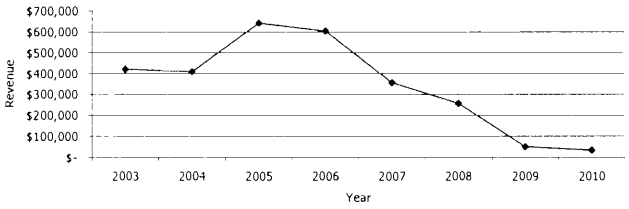
Figure 1 depicts the seven year revenue for each CFF fund from 2003 to 2010. The highest revenue years for all funds were in 2005 and 2006, and thus far, the lowest has been in 2010. Figure 2 illustrates all of the revenue for each CFF fund by year.

Table 3. CFF Revenue (FY 2003 through 2010)

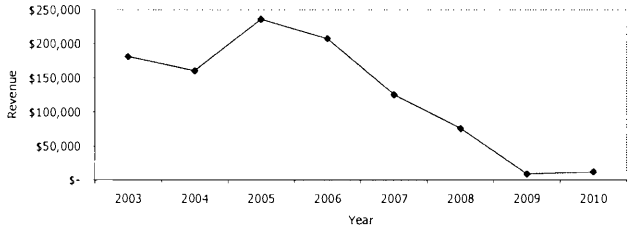
FUND	2004	2005	Difference between 2004 and 2005	2006	Difference between 2005 and 2006	2007	Difference between 2006 and 2007	2008	Difference between 2007 and 2008	2009	Difference between 2008 and 2009	2010	Difference between 2009-and 2010	7 Year Total
1310 Police	413,764	661,737	37%	637,907	-4%	418,848	-34%	347,000	-17%	83,156	-76%	39,582	-52%	**2,601,994**
1320 Fire	139,883	223,368	37%	140,374	-37%	67,008	-52%	45,634	-32%	(20,184)	-144%	(17,112)	15%	**578,971**
1350 Parks	2,047,616	3,456,313	41%	2,659,996	-23%	1,981,690	-26%	1,347,151	-32%	400,451	-70%	178,701	-55%	**12,071,918**
1380 Gen. Gov't.	449,084	568,613	21%	483,154	-15%	337,016	-30%	264,469	-22%	67,894	-74%	28,067	-59%	**2,198,297**
1390 Administration	133,437	256,613	48%	212,475	-17%	161,731	-24%	156,335	-3%	48,966	-69%	23,814	-51%	**993,371**
1410 Streets	5,361,745	9,954,489	46%	8,610,286	-14%	7,927,736	-8%	9,077,130	14%	4,457,065	-51%	1,920,370	-57%	**47,308,821**
1420 Transit	164,427	189,736	13%	131,400	-31%	100,906	-23%	100,841	0%	29,581	-71%	12,411	-58%	**729,302**
1430 Air Mitigation	122,102	301,327	59%	356,754	18%	317,174	-11%	253,505	-20%	62,343	-75%	29,769	-52%	**1,442,974**
TOTAL	**8,832,058**	**15,612,196**	**43%**	**13,232,346**	**-15%**	**11,312,109**	**-15%**	**11,592,065**	**2%**	**5,129,273**	**-56%**	**2,215,602**	**-57%**	**67,925,649**

FIGURE 1. CFF Revenue For All Funds
FY 2003 - 2010

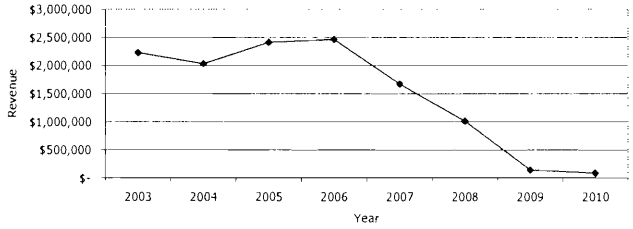
Fund 1310 - Police CFF



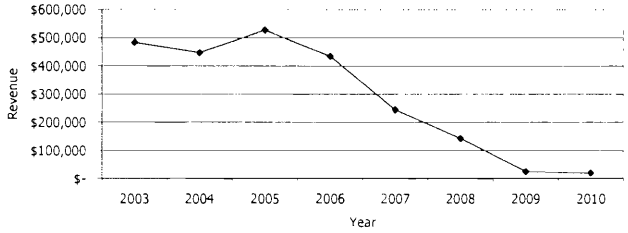
Fund 1320 - Fire CFF



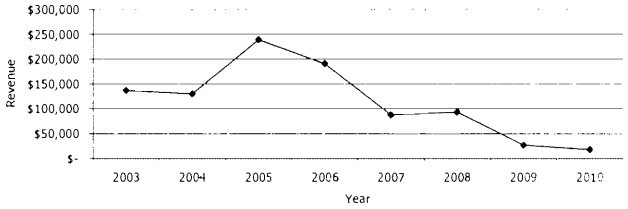
Fund 1350 - Parks CFF



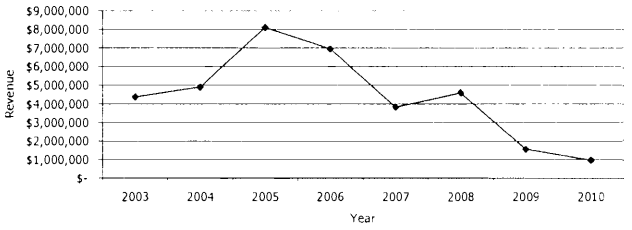
Fund 1380 - General Government CFF



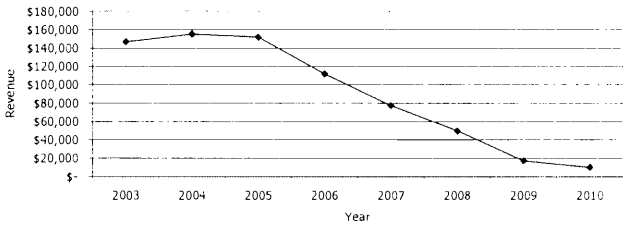
Fund 1390 - CFF Admin



Fund 1410 - Streets CFF



Fund 1420 - Transit CFF



Fund 1430 - Air Mitigation CFF

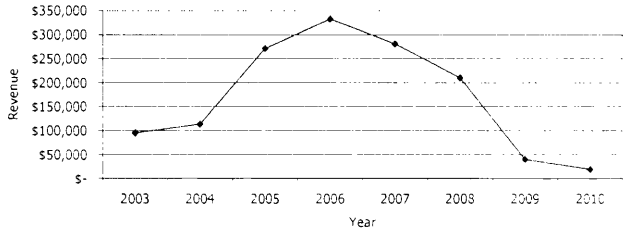
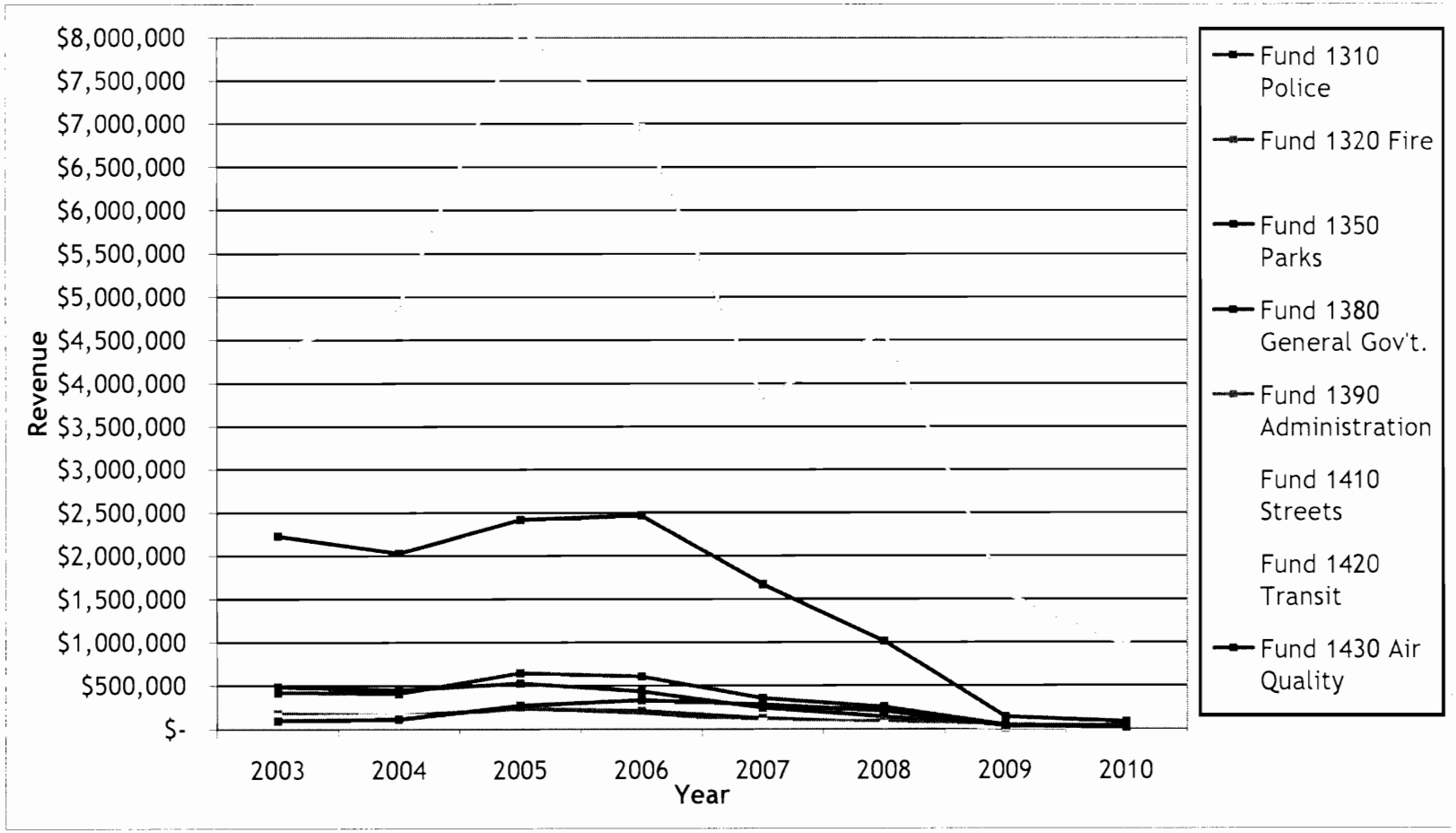


Figure 2. CFF Revenue for ALL Funds (FY 2003-2010)



CFF Expenditures & Transfers

Capital Facilities Fees mitigate the impacts caused by new development on certain public facilities. They are used to finance the acquisition, construction and improvement of public facilities needed as a result of this new development.

Fiscal Year 2009-2010 Expenses:

Fund 1310 - Police Capital Facilities Fee
The fees collected and deposited into this fund are for the Police Tactical Training Center and police vehicles and equipment.

Annually, this fund makes a $228,000 debt service payment. It is anticipated that there will be enough money in reserves to make this year's debt service payment. Staff is currently working with the Finance Department to identify funding solutions for payments commencing in FY 2011-12.

Fund 1320 - Fire Capital Facilities Fee Fund
The fees collected and deposited into this fund are for fire facility expansion, fire vehicles such as engines and ladder trucks and other fire equipment.

This fund has a negative balance as a result of a previous loan for fire apparatus from the general fund. A loan agreement is in place, but due to the economic conditions, revenue has not been adequate to cover the debt service payment, resulting in the General Fund having to continue to bear that cost.

Fund 1350 - Parks Capital Facilities Fee Fund
The fees collected and deposited into this fund are for neighborhood parks, community and regional parks, sports facilities and community buildings.

Fund 1380 - City Hall and Other Facilities Capital Facilities Fee Fund
The fees collected and deposited into this fund are for City Hall and related parking facilities, the corporation yard and related facilities, City vehicles, and the City's information technology expansion.

Annually $450,000 is transferred to assist in paying for debt service for Tenth Street Place. It is anticipated that this fund will only be able to make one debt service payment in the coming year, given the current fund balance. Staff is currently working with the Finance Department to identify funding solutions for payments commencing in FY 2011-12.

Fund 1390 - Capital Facilities Fee Administration Fund
The fees collected and deposited into this fund are for the administration of the CFF Program to include the preparation of the Annual and Five Year Capital Facilities Fee Reports, and periodic Capital Facilities Fee Updates. Other administrative requirements include the day to day management of CFF funded Capital Improvement Program (CIP) projects which includes the preparation of annual CIP budgets and the preparation of the CFF proformas for all eight sub-funds that make up the CFF proforma. Pursuant to Government Code Section 66000 requiring the preparation of the Annual and Five-Year Report, the City has included this fund as a means

Fund 1410 - Streets Capital Facilities Fee Fund
The fees collected and deposited into this fund are for roadway improvements such as expressways, arterials and collectors, as well as their intersections and traffic signals.

Fund 1420 - Public Transit Capital Facilities Fee Fund
The fees collected and deposited into this fund are for buses, bus shelters, bus stops, the Bus Maintenance Facility, and the Northeast Transfer Station.

Fund 1430 - Air Quality Mitigation Capital Facilities Fee Fund.
The fees collected and deposited into this fund are for facilities that reduce automobile travel by facilitating alternative modes of travel such as the Amtrak Station parking lot, park and ride lots, vanpooling/ carpooling, bike paths and bike storage, footpaths and pedestrian access.

Table 4 "2009-2010 Expenditures & Transfers by Fund" outlines all CFF expenses by fund. It should be noted that these are projects that were planned for in the CFF program and that most if not all span two to three fiscal years since considerable time is necessary to plan, acquire right of way, design and construct the projects.

POLICE FUND	ORG	DESCRIPTION	EXPENDITURES		Status
1310		(T-fer) Debt Service Payment	228,000	100%	Annual Payment
		Total	**228,000**		
FIRE FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1320		(T-fer) Debt Service Loan Payment for Fire Station 11 & Appartus	100,000	100%	Annual Payment
		Total	**100,000**	100%	
PARKS FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1350	P341	Lighting Play and Shade FY 07-08	291,108	100%	Project is complete and ready for closure.
1350	P365	(T-fer) Virginia Corridor Phase V	229,898	50%	Project is scheduled to bid in October 2010.
1350	P856	NE Community Services Center	79,736	100%	Project is in final stages of environmental work. One community meeting to be held this fall and then project will go to Council for approval.
1350	P502	(T-fer) Monterosso Trailhead	3,822	100%	Project is complete and ready for closure.
		Total	**604,564**		
GENERAL GOVERNMENT FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1380		(T-fer) Debt Service Payment	450,000	100%	Annual Payment
		Total	**450,000**		
CFF ADMINISTRATION FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1390	0260	CFF Administration	190,759	100%	On-going - city staff time for program administration.
1390	0266	CFF 5 Year Update	18,779	100%	Update expected to be completed in Spring 2011.
		Total	**209,538**		
STREETS FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1410	E010	Right Turn Lane NB McHenry to EB Briggsmore	61,767	12%	Final drawings are 95% complete. Project specifications are 85% complete. E-76 authorization to proceed with construction has been received from Caltrans. Dry utility relocation to begin in October 2010 and is expected to be completed by April 30, 2011
1410	E011	Right Turn Lane - EB Briggsmore to SB McHenry	64,592	12%	Final drawings are 95% complete. Project specifications are 85% complete. E-76 authorization to proceed with construction has been received from Caltrans. Dry utility relocation to begin in October 2010 and is expected to be completed by April 30, 2011.
1410	E305	Dale Road CCTV Cameras	3,994	100%	Finalizing specifications to put project out to bid.
1410	E306	Right Turn Lanes - 4 Intersections	280,506	12%	Design almost complete. MID and utility work approval received by Council in September 2010.
1410	E332	New Traffic Signals - 2008	75,084	12%	Wiring and installation of controller is pending before signal is place in operation.
1410	E635	Arterial Roundabouts (119)	348	12%	Project is complete and ready for closure.
1410	E659	7th & B Street Signal Modification	(93)	12%	Project is complete and ready for closure.
1410	E674	Claus/Sylvan/Floyd/Lincoln-Carpenter	53,832	100%	Project is complete and ready for closure.
1410	E677	Upgrade Signals Briggsmore/Carpenter	583	12%	Project is complete and ready for closure.
1410	E678	Roselle/Hillglen Kodiak Signal	261	100%	Project is now included in Roselle Widening and Improvement project.
1410	E689	Pelandale CCTV/Fiber Optics	127,903	100%	Project is complete and ready for closure.
1410	E740	Pelandale Interchange Preliminary Design and Environment	282,167	100%	PA&ED 100% completed. The project is currently in the Plans, Specifications and Estimate Phase.
1410	H012	Coffee & Claratina Intersection Improvements	19,489	100%	Awaiting approval to start design.
1410	H137	Oakdale Road Widening	8,256	100%	Design not yet started.
1410	H421	NWS1 - Bangs/Prescott Intersection Improvements	146,305	100%	Project is complete and is closed.
1410	H424	NWS1 - Pelandale/Sisk to SR99 Northbound On-Ramp	639,484	100%	Construction at closeout pending completion regarding a drainage swale next to the northbound Highway 99 on-ramp and rewiring of electrical signal boxes per additional Caltrans requirements.
1410	H455	Claratina - Oakdale to Roselle	20,610	100%	Relocation of PG&E gas regulator station and acquisition of property are critical path items. Discussions with PG&E are ongoing. Preliminary design is complete.
1410	H458	Claus Rd-Briggsmore to Sylvan	373	100%	Survey work complete. Project design work is on hold.
1410	H461	Pelandale - 6 Lanes Dale to McHenry	4,939,208	100%	Project is complete and is closed.
1410	H465	Carpenter Road Bridge - Seismic Retrofit	245,797	100%	Plans and specifications are complete. NEPA is nearly complete. Construction expected to begin in Summer 2011.
1410	H470	Claratina-Oakdale to Roselle	9,289	100%	A portion of right of way is being acquired on Oakdale. Project will be closed after acquisition is complete.
1410	H476	Developer Reimbursement (ROW/Improvements)	201,604	100%	Reimbursement for Bank of Stockton project. No agreements for reimbursement have been made this past year.
1410	H579	Pelandale/Dale to McHenry	12,038	100%	Preliminary design work has been done. Project is on hold as it is not a high priority project.
1410	Q210	Claratina - Coffee to Oakdale	80,791	100%	Project is complete and is closed.
		Total	**7,274,188**		
TRANSIT FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1420		No Expenditures	-		
		Total	**-**		
AIR MITIGATION FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**		
1430	A087	(T-fer out to 2330)	43,000	50%	Virigina Corndor Phase III
		Total	**43,000**		

Summary

This is an Annual Report as required by Section 66006 of the Government Code. The City collects these fees on a pay-as-you-go basis. This Report reflects the requirements as stipulated in the Government Code.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-473

RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-2011, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on May 11, 2010, by Resolution No. 2010-192, approved the Fiscal Year 2010-2011 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, staff has proposed an amendment to the Annual Action Plan as set forth in **Exhibit "A", attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the Annual Action Plan, and to provide a 30-day comment period, which began September 29, 2010, and ends on November 3, 2010, and

WHEREAS, this first amendment will amend the Fiscal Year 2010-2011 AAP to include the allocation of revolving loan and entitlement carryover funds, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its October 27, 2010, meeting, and the Committee recommended that the City Council approve the amendment to the HUD AAP as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on

November 3, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2010-2011 HUD AAP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2010-2011 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit A**.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute any related documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Marsh, who moved its adoption, with motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

BUDGET ADJUSTMENT DETAIL
FIRST AMENDMENT OF HUD ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-11

EXPENSE:	FROM:	TO:	AMOUNT:
Add FY 10/11 Entitlement funds to the Empire Street Capital Improvement Project	1130-320-3513	2330-320-P014	224,000
Add revolving loan program income to the Empire Street Capital Improvement Project to fully fund the project	1151-320-3511	2330-320-P014	93,298
Add unspent FY 2009-10 funds to the Empire Street Capital Improvement Project to fully fund the project	1130-320-3513	2330-320-P014	316,910
Add revolving loan program income to the ADA Accessibility Features Capital Improvement Project to fund additional locations	1151-320-3511	1130-320-3216	50,000
Add revolving loan program income to Economic Development activities	1151-320-3511	1151-320-3272	150,000
Add FY 10/11 Entitlement funds to the Neighbhorhood Revitalization Strategy Area activities	1130-320-3513	1151-320-3273	243,305

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-474

RESOLUTION AMENDING THE FY 2010-2011 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE APPROVED CHANGES TO THE ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-2011 AND THE REALLOCATION OF CARRYOVER FUNDS AS NOTED IN EXHIBIT A; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, on May 11, 2010, by Resolution No. 2010-192, the Modesto City Council approved the Fiscal Year 2010-2011 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, this first amendment will amend the Fiscal Year 2010-2011 HUD AAP to include the allocation of revolving loan and entitlement carryover funds as set forth in **Exhibit "A", attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the HUD AAP, and to provide a 30-day comment period, which began September 29, 2010, and ends on November 3, 2010, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its October 27, 2010, meeting, and recommended that the Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 3, 2010, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010

Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2010-2011 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2010-2011 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit A**, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3rd day of November, 2010, by Councilmember Marsh, who moved its adoption, with motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

BUDGET ADJUSTMENT DETAIL
FIRST AMENDMENT OF HUD ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-11

EXPENSE:	FROM:	TO:	AMOUNT:
Add FY 10/11 Entitlement funds to the Empire Street Capital Improvement Project	1130-320-3513	2330-320-P014	224,000
Add revolving loan program income to the Empire Street Capital Improvement Project to fully fund the project	1151-320-3511	2330-320-P014	93,298
Add unspent FY 2009-10 funds to the Empire Street Capital Improvement Project to fully fund the project	1130-320-3513	2330-320-P014	316,910
Add revolving loan program income to the ADA Accessibility Features Capital Improvement Project to fund additional locations	1151-320-3511	1130-320-3216	50,000
Add revolving loan program income to Economic Development activities	1151-320-3511	1151-320-3272	150,000
Add FY 10/11 Entitlement funds to the Neighbhorhood Revitalization Strategy Area activities	1130-320-3513	1151-320-3273	243,305

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-475

Print

RESOLUTION ACCEPTING AN AWARD IN THE AMOUNT OF $3,836.98 FROM THE U.S. DEPARTMENT OF JUSTICE, BULLETPROOF VEST PARTNERSHIP PROGRAM, FOR ARMOR VESTS

WHEREAS, on August 19, 2010, City staff submitted an application to the U.S. Department of Justice (DOJ) for award funding as part of the Bulletproof Vest Partnership (BVP) Program, and

WHEREAS, on October 7, 2010, City staff received notification of award funding approval in the amount of $3,836.98, and

WHEREAS, through the BVP Program federal award funds were made available for the purchase of armor vests for law enforcement officers, and

WHEREAS, the BVP Program pays up to 50% of the cost of vests purchased and requires that each applicant jurisdiction be responsible for matching the cost of each qualifying vest purchased, and

WHEREAS, the reimbursable program term is April 1, 2010 through August 31, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an award of $3,836.98 from the U.S. Department of Justice, Bulletproof Vest Partnership Program, for armor vests.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-476

Print

RESOLUTION AMENDING THE 2010/11 MULTI-YEAR BUDGET TO ESTIMATE REVENUE OF $3,836.98 FROM THE U.S. DEPARTMENT OF JUSTICE, BULLETPROOF VEST PARTNERSHIP PROGRAM, AND APPROPRIATE FUNDS FOR THE PURCHASE OF BULLETPROOF VESTS

WHEREAS, the City of Modesto Police Department was awarded funding in the amount of $3,836.98 from the U.S. Department of Justice, 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 Bulletproof Vest Partnership program funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2010/11 Multi-Year Budget is hereby amended as shown in Budget Adjustment **attached**.

BE IT FURTHER RESOLVED that the Director of Finance, or her authorized designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Police Department

Council Action Date:
Resolution Number:

FY: 2010-11

Fund Title: 0400 - Reimbursed Grants

Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO MY-0410-190-2504-3508			$3,837	$3,837	Federal Police Grant
APPROPRIATIONS					
FROM 11-0100-190-1921-0308	1921-C	$209,000	($3,837)	$205,163	Tools, Shop and Field Supplies
TO MY-0410-190-2504-0308	2504-C		$7,674	$7,674	Tools, Shop and Field Supplies
			$7,674		
TRANSFERS BETWEEN FUNDS					
FROM 11-0100-700-1921-7041			$3,837	$3,837	Transfer-Out From Fund 0100 - Match Funding
TO MY-0410-700-2504-9010			$3,837	$3,837	Transfer-In to Fund 0410 - to provide GF Match

COMMENTS/JUSTIFICATION

This budget amendment is being made to recognize revenue awarded to the Modesto Police Department from the Department of Justice under the Fiscal Year 2010 Bulletproof Vest Partnership solicitation. This action will amend the adopted Operating Budget for FY 2010-11 as follows: 1) Add a zero expense line for revenue object 3508 - Federal Police Grant in NEW Multi-Year Grant Org. 0410-190-2504; 2) Transfer the required match funding (from existing appropriations in Object 0308 - Tools, Shop and Field Supplies in Org. 0100-190-1921) from the General Fund - 0100 to the Special Revenue Fund - 0410; 3) Increase the revenue budget in Object 3508 in the amount of $3,837 and; 4) Program offsetting expenses in Org. 0410-190-2504 - Object 0308 - Tools, Shop and Field supplies in the amount of $7,674. These funds will be used, per the terms of the award, to purchase bulletproof vests for police officers. This is a reimbursable award and will offset 50% of the cost up to $3,387. Term of the award runs from April 1, 2010 through August 31, 2012.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II		
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)		

TRANSFER NO.: _____

BY: _____ DATE: _____

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-477

Print

RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $28,106.72 FROM THE OFFICE OF TRAFFIC SAFETY SOBRIETY CHECKPOINT MINI-GRANT PROGRAM, TO CONDUCT SOBRIETY CHECKPOINTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY PROGRAM DOCUMENTS

WHEREAS, on August 16, 2010, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program" from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday period, between December 17, 2010 and January 2, 2011, and the Labor Day period in August/September 2011, and

WHEREAS, four additional checkpoints may be conducted outside of those particular time frames at the Department's discretion, and

WHEREAS, a checkpoint cannot exceed $5,174.07 for overtime to conduct the checkpoint and includes funding for dispatchers and support personnel (Community Services Officer), and

WHEREAS, on October 11, 2010, the Modesto Police Department received notification that it was awarded $28,106.72 for the operation of up to eight sobriety checkpoints in Modesto, and

WHEREAS, this mini-grant will result in increased grant revenue of $28,106.72 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a mini-grant in the amount of $28,106.72 from the Office of Traffic Safety Sobriety Checkpoint Mini-Grant Program to conduct sobriety checkpoints.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010 -478

Print

RESOLUTION AMENDING THE MULTI-YEAR 2010/2011 OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $28,106.72 TO CONDUCT SOBRIETY CHECKPOINTS

WHEREAS, on August 16, 2010, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program" from the Office of Traffic Safety, through the National Highway Traffic Safety Administration, and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday period, between December 17, 2010 and January 2, 2011, and the Labor Day period in August/September 2011, and

WHEREAS, four additional checkpoints may be conducted outside of those particular time frames at the Department's discretion, and

WHEREAS, a checkpoint cannot exceed $5,174.07 for overtime to conduct the checkpoint and includes funding for dispatchers and support personnel (Community Services Officer), and

WHEREAS, on October 11, 2010, the Modesto Police Department received notification that it was awarded $28,106.72 for the operation of up to eight sobriety checkpoints in Modesto, and

WHEREAS, this mini-grant will result in increased grant revenue of $28,106.72 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Multi-Year 2010/2011 Operating Budget to appropriate

revenues and expenditures of $28,106.72 for overtime to conduct sobriety checkpoints, as listed in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Julie Hendee
Telephone No.: 572-9518
Department: Police Department

Council Action Date:
Resolution Number:

FY: 2010-11

Fund Title: 0410 - Operating Grants Reimbursed

Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					**Office Of Traffic Safety - Sobriety Point Mini Gr**
MY-0410-190-2108-3490			$28,107	$28,107	State Grant Revenue
APPROPRIATIONS					
FROM					
TO					**Office Of Traffic Safety - Sobriety Point Mini Gr**
MY-0410-190-2108-0130	2108-A		$28,107	$28,107	Overtime
			$28,107		
TRANSFERS BETWEEN FUNDS					
FROM					
TO					

COMMENTS/JUSTIFICATION

This budget adjustment is being made to amend the MY Operating Budget for FY 2010-11 to 1) Create a new multi-year operating account in Fund 0410 - Operating Grants Reimbursed to house funding received from the 2010-11 OTS Sobriety Checkpoint Mini Grant; 2) Program revenue and offset expenses in the amount of $28,106.72. This mini grant will cover personnel overtime costs to conduct eight sobriety checkpoints during the two "National Impaired Driving Campaign" mobilization period.

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)		

TRANSFER NO.:

BY: DATE:

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-479

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE STANISLAUS COUNCIL OF GOVERNMENTS TO SET FORTH THE BASIC STRUCTURE FOR ADMINISTERING FEDERAL TRANSIT ADMINISTRATION SECTION 5316 AND SECTION 5317 FUNDS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU

WHEREAS, The Stanislaus Council of Governments (StanCOG) has been identified as the designated recipient by the Federal Transit Administration (FTA) to receive Sections 5316 and 5317 federal transit funds, which are made available to the Modesto Urbanized Area, and

WHEREAS, in February 2008, StanCOG adopted a Coordinated Public Transit-Human Services Transportation Plan as required under FTA Sections 5316 and 5317, and

WHEREAS, StanCOG has subsequently adopted a Program Management Plan that describes StanCOG's policies and procedures for administering the FTA's Sections 5316 and 5317 programs in a large urbanized area, and

WHEREAS, StanCOG is currently working to obtain FTA grantee status that will allow it to directly apply for and administer Section 5316 and 5317 grants, and

WHEREAS, the City of Modesto currently has FTA grantee status and has active FTA grants for 5316 and 5317 funds that it obtained on behalf of StanCOG, and

WHEREAS, Modesto and StanCOG must enter into a Memorandum of Understanding to define the respective roles and responsibilities of each organization in the FTA Sections 5316 and 5317 grant application and grant management process to describe the pass-through of Federal funds from Modesto to StanCOG, and to ensure compliance with all federal grant regulations and requirements, and

WHEREAS, StanCOG and Modesto mutually agree that the respective responsibilities outlined in this MOU foster healthy collaboration for the purpose of meeting the program goals of FTA Sections 5316 and 5317 within the Modesto Urbanized Area,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding with StanCOG to set forth the basic structure for Federal Transportation Administration Section 5316 and 5317 grant applications and administration in the Modesto Urbanized Area.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-480

RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH STOTT OUTDOOR ADVERTISING OF CHICO, CALIFORNIA, TO SELL AND MAINTAIN ADVERTISING ON THE EXTERIORS OF MODESTO AREA EXPRESS BUSES; 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 54 buses, and

WHEREAS, a Request for Proposals (RFP) was issued 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, two 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, under the terms of the Agreement, Stott Outdoor Advertising will make a one-time payment to the City of $50,000, concurrent with approval of the Agreement, and a guaranteed amount of $10,000 per month, or an amount equivalent to 37.5% of its net sales revenue, whichever is greater, for the privilege of selling advertising on MAX buses for a five-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Agreement with Stott Outdoor Advertising of Chico, California, to sell and maintain advertising on the exteriors Modesto Area Express buses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-481

RESOLUTION ACCEPTING THE WORK BY TCB INDUSTRIAL, INC. FOR THE "FALL PROTECTION AT TANKS 3, 4 ,5, 6, 7, 8, & 9" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $43,488.00

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the "Fall Protection at Tanks 3, 4, 5, 6, 7, 8, & 9" Project has been completed by TCB Industrial, Inc., in accordance with the contract agreement dated April 13, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the "Fall Protection at Tanks 3, 4, 5, 6, 7, 8, & 9" Project is hereby accepted as complete from said contractor TCB Industrial, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $43,488.00 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-482

RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY WITH BACCHUS VINEYARDS, A CORPORATION, FOR A 0.17-ACRE (7,500.8 SQ. FT.) PARCEL IN FEE, AND A 0.11-ACRE (5,000 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 4000 OAKDALE ROAD (APN 083-003-005), IN THE AMOUNT OF $12,000, FOR THE OAKDALE ROAD & CLARATINA AVENUE INTERSECTION PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on June 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for improvements, and

WHEREAS, staff has identified one parcel along the east side of Oakdale Road for a project to improve the Oakdale Road & Claratina Avenue intersection, by adding a left turn lane to Oakdale Road, to reduce congestion and improve safety, and

WHEREAS, the property needs to be acquired for this street intersection project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Purchase and Sale of Real Property with Bacchus Vineyards, for a 0.17-acre (7,500.8 sq. ft.) parcel in fee, and a 0.11-acre (5,000 sq. ft.) portion for a Temporary Construction Easement of a parcel located at 4000 Oakdale Road (APN 085-003-005), in the amount of $12,000, for the Oakdale Road & Claratina Avenue intersection project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-483

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL LOCATED AT 4000 OAKDALE ROAD (APN 085-003-005), OWNED BY BACCHUS VINEYARDS, A CORPORATION, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE OAKDALE ROAD & CLARATINA AVENUE INTERSECTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.17-acre (7,500.8 sq. ft.) portion of a 39.14-acre parcel of land located on Oakdale Road within the project area, owned by Bacchus Vineyards, a corporation, (APN 085-003-005), to be purchased by the City of Modesto for the Oakdale Road & Claratina Avenue intersection project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisition of a property located on Oakdale Road, owned by Bacchus Vineyards, a corporation, (APN 085-003-005) to be purchased by the City of Modesto for the Oakdale Road & Claratina Avenue intersection project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-484

RESOLUTION APPOINTING STEPHANIE BURNSIDE AS THE INTERIM CITY COUNCILMEMBER FOR DISTRICT 5 TO SERVE FOR A LIMITED TERM EFFECTIVE DECEMBER 7, 2010 UNTIL THE ELECTION ON NOVEMBER 8, 2011 TO FILL THE VACANCY CREATED BY THE RESIGNATION OF COUNCILMEMBER KRISTIN OLSEN

WHEREAS, Section 702 of the Charter of the City of Modesto authorizes the City Council to appoint a Councilmember within thirty (30) days after such office has become vacant, and

WHEREAS, the City Council appointed a Council subcommittee to solicit applications from eligible candidates from City Council District 5 to serve as an interim Councilmember until the election of November 8, 2011; and

WHEREAS, the vacancy is due to the resignation of Councilmember Kristin Olsen on November 4, 2010 upon her election to the California Assembly; and

WHEREAS, the City of Modesto District 5 Ad Hoc Committee scheduled a filing period wherein 13 Candidates applied for the vacancy; two Candidate Forums were held on October 14 and 21, 2010; and

WHEREAS, the City of Modesto District 5 Ad Hoc Committee recommended appointment of Stephanie Burnside, a resident of District 5, at the Committee's Deliberation Meeting held on November 4, 2010; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Stephanie Burnside, a District 5 resident, is hereby appointed to the Interim City Councilmember for District 5 effective December 7, 2010 until the election on November 8, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this Resolution to Stephanie Burnside, Interim Councilmember of District 5, and the Executive Assistant to the Council thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of November, 2010, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-485

Print

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JUNE SHEHAN FROM THE GOLF COURSE ADVISORY COMMITTE

WHEREAS, June Shehan was appointed a member of the Golf Course Advisory Committee on August 12, 2008, and

WHEREAS, June Shehan has tendered her resignation from the Golf Course Advisory Committee, and

NOW, THERFORE, BE IT RESOLVED that the resignation of June Shehan from the Golf Course Advisory Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to June Shehan for her service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-486

Print

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DAVE TANNER FROM THE GOLF COURSE ADVISORY COMMITTE

WHEREAS, Dave Tanner was appointed a member of the Golf Course Advisory Committee on September 6, 2006 and

WHEREAS, Dave Tanner has tendered her resignation from the Golf Course Advisory Committee, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Dave Tanner from the Golf Course Advisory Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Dave Tanner for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RESCINDED
Print
DEC - 4 2012
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2012-483

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-487

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE FOLLOWING DEPARTMENTS OF THE CITY OF MODESTO: OFFICE OF THE CITY ATTORNEY; OFFICE OF THE CITY AUDITOR; OFFICE OF THE CITY CLERK; OFFICE OF THE CITY MANAGER; COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT; FINANCE DEPARTMENT; FIRE DEPARTMENT; HUMAN RESOURCES; INFORMATION & TECHNOLOGY DEPARTMENT; PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT; POLICE DEPARTMENT; PUBLIC WORKS DEPARTMENT; RESCINDING RESOLUTION 2008-652; AND CREATING A CONFLICT OF INTEREST CODE FOR THE UTILITY PLANNING AND PROJECTS DEPARTMENT

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for various City Departments, and creation of a Conflict of Interest Code for the newly established Utility Planning and Projects Department.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts an amended Conflict of Interest Code for the City of Modesto as submitted, a copy of said Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution 2008-652, adopted by the City Council is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE
FOR THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the City of Modesto.

Designated employees shall file their statements with the Office of the City Clerk which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Statements for all designated employees will be retained by the Office of the City Clerk.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-488

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE BOARD OF BUILDING APPEALS OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 94-706

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for of the Board of Building Appeals of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Board of Building Appeals of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 94-706 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-503

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

BOARD OF BUILDING APPEALS

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 Board of Building Appeals.

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~~.

BOARD OF BUILDING APPEALS

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Board Members	1
Consultant	2

BOARD OF BUILDING APPEALS

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-489

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 94-707

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for of the Board of Zoning Adjustment of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Board of Zoning Adjustment of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 94-707 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-504

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

BOARD OF ZONING ADJUSTMENT

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) that contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Board of Building Appeals.

Designated employees shall file their statements with the Office of the City Clerk ~~and Auditor~~ who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk ~~& Auditor~~.

BOARD OF ZONING ADJUSTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Board Members	1
Consultant	2

BOARD OF ZONING ADJUSTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department that 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. 2010-490

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 94-708

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for of the Citizens Housing and Community Development Committee of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Citizens Housing and Community Development Committee of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 94-708 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-505

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

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 Citizens Housing and Community Development Committee.

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.~~

CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Committee Members	1
Consultant	~~2~~1

CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-491

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE DISABLED ACCESS APPEALS BOARD OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 94-709

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for of the Disabled Access Appeals Board of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Disabled Access Appeals Board of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 94-709 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-506

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

DISABLED ACCESS APPEALS BOARD

OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Disabled Assess Appeals Board.

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.

DISABLED ACCESS APPEALS BOARD

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Board Members	1
Consultant	2

DISABLED ACCESS APPEALS BOARD

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-492

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING A CONFLICT OF INTEREST CODE FOR THE ENTERTAINMENT COMMISSION

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Conflict of Interest Code for of the Entertainment Commission of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Conflict of Interest Code of the Entertainment Commission of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

RESCINDED
DEC 2 2014
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-507

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

ENTERTAINMENT COMMISSION

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 Entertainment Commission.

Designated employees shall file their statements with the Office of the City Clerk which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk.

ENTERTAINMENT COMMISSION

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Committee Members	2
Consultant	2

ENTERTAINMENT COMMISSION

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-493

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE HOUSING REHABILITATION LOAN COMMITTEE OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 95-289

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7, 2010, considered the adoption of the Amended Conflict of Interest Code for of the Housing Rehabilitation Loan Committee of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Housing Rehabilitation Loan Committee of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 95-289 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-508

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

HOUSING REHABILITATION LOAN COMMITTEE

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 Housing Rehabilitation Loan Committee.

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~~.

HOUSING REHABILITATION LOAN COMMITTEE

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Committee Members	1
Consultant	~~2~~ 1

HOUSING REHABILITATION LOAN COMMITTEE

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-494

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE LANDMARK PRESERVATION COMMITTEE OF THE CITY OF MODESTO AND RESCINDING RESOLUTION 94-713

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 7 2010, considered the adoption of the Amended Conflict of Interest Code for of the Landmark Preservation Committee of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the amended Conflict of Interest Code of the Landmark Preservation Committee of the City of Modesto as submitted, a copy of which is **attached** hereto, is hereby approved.

BE IT FUTHER RESOLVED that Resolution No. 94-713 adopted by the Council is hereby rescinded.

RESCINDED

DEC 2 2014

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2014-509

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CONFLICT OF INTEREST CODE

OF THE

LANDMARK PRESERVATION COMMISSION

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 Landmark Preservation Commission.

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~~.

LANDMARK PRESERVATION COMMISSION

CONFLICT OF INTEREST CODE

EXHIBIT "A"

Designated Positions	Disclosure Category
Chairperson, All Committee Members	1
Consultant	~~2~~ 1

LANDMARK PRESERVATION COMMISSION

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-495

Print

RESOLUTION ACCEPTING THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SUSTAINABLE COMMUNITIES INITIATIVE "SMART VALLEY PLACES" GRANT IN THE AMOUNT OF $200,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT ACCEPTANCE AND ADMINISTRATION DOCUMENTS

WHEREAS, the existing and future problems facing cities in the San Joaquin Valley region are serious, well-documented and include traffic congestion, high unemployment, lack of educational attainment, high poverty levels, housing issues, health concerns, pollution of the environment, and slow economic growth, and

WHEREAS, a direct partnership and Compact among San Joaquin Valley cities is a practical and necessary approach, and the best and most effective way to create a pool of resources, templates, models and technical expertise (such as advanced GIS-based tools, General Plan elements, development codes, and community education and leadership) that will lead to measurable implementation of positive change in the trends listed above by promoting and facilitating long-term enhanced sustainability, and

WHEREAS, the partner cities of Clovis, Delano, Fresno, Lodi, Hanford, Manteca Madera, Merced, Modesto, Porterville, Stockton, Tulare, Turlock and Visalia have formed a long-term Compact known as "Smart Valley Places" for the purpose of creating a more sustainable San Joaquin Valley through immediate and on-going aggressive pursuit, acquisition and sharing of, and mutual accountability for, regional planning grant funding opportunities, and

WHEREAS, it is acknowledged by the partner cities listed above that in order to achieve broad-based positive results, the "Smart Valley Places" membership must be broadened over time to include other partner cities and technical resource agencies throughout the Valley, and

WHEREAS, the City of Modesto intends to locally promote the fundamental values included within the Smart Valley Places Compact by embracing smart growth and sustainability principles, and social and environmental justice for all citizens and residents, in order to facilitate the realization of a better San Joaquin Valley,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts of the U.S. Department of Housing & Urban Development Sustainable Communities Initiative "Smart Valley Places" grant award, in the amount of $200,000, and committing staff time the equivalent of approximately $60,000 to devote to grant-eligible work.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary grant acceptance and administration documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-496

Print

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 MULTI-YEAR OPERATING GRANT FUND BUDGET TO ESTABLSISH A NEW MULTI-YEAR BUDGET FOR THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SUSTAINABLE COMMUNITIES INITIATIVE "SMART VALLEY PLACES" GRANT, AND TO APPROPRIATE $200,000 IN GRANT REVENUE AND EXPENSE

WHEREAS, the existing and future problems facing cities in the San Joaquin Valley region are serious, well-documented and include traffic congestion, high unemployment, lack of educational attainment, high poverty levels, housing issues, health concerns, pollution of the environment, and slow economic growth, and

WHEREAS, a direct partnership and Compact among San Joaquin Valley cities is a practical and necessary approach, and the best and most effective way to create a pool of resources, templates, models and technical expertise (such as advanced GIS-based tools, General Plan elements, development codes, and community education and leadership) that will lead to measurable implementation of positive change in the trends listed above by promoting and facilitating long-term enhanced sustainability, and

WHEREAS, the partner cities of Clovis, Delano, Fresno, Lodi, Hanford, Manteca Madera, Merced, Modesto, Porterville, Stockton, Tulare, Turlock and Visalia have formed a long-term Compact known as "Smart Valley Places" for the purpose of creating a more sustainable San Joaquin Valley through immediate and on-going aggressive pursuit, acquisition and sharing of, and mutual accountability for, regional planning grant funding opportunities, and

WHEREAS, it is acknowledged by the partner cities listed above that in order to achieve broad-based positive results, the "Smart Valley Places" membership must be broadened over time to include other partner cities and technical resource agencies throughout the Valley, and

WHEREAS, the City of Modesto intends to locally promote the fundamental values included within the "Smart Valley Places" Compact by embracing smart growth and sustainability principles, and social and environmental justice for all citizens and residents, in order to facilitate the realization of a better San Joaquin Valley.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 Multi-Year Operating Grand Fund budget is hereby amended to establish a new multi-year budget for the U.S. Department of Housing & Urban Development Sustainable Communities Initiative "Smart Valley Places" grant and appropriate $200,000 in revenue and expense.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-497

Print

RESOLUTION ACCEPTING THE CALTRANS COMMUNITY BASED TRANSPORTATION PLANNING GRANT, IN THE AMOUNT OF $100,000, ON BEHALF OF THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT CONTRACTS AND RELATED DOCUMENTS

WHEREAS, the California High Speed Rail Authority and the Altamont Commuter Express are considering extensions of service to and through downtown Modesto, and

WHEREAS, on January 12, 2010, the City Council, by motion, supported passenger rail service in downtown Modesto, and

WHEREAS, on March 23, 2010, the City Council, by Resolution No. 2010-122, approved a grant application to Caltrans for a Community Based Transportation Planning Grant in the amount of $100,000 with a match of $12,500, $10,000 from Local Transportation Funds and $2,500 from in-lieu staff time, and

WHEREAS, the Community & Economic Development Department submitted a grant application to Caltrans for a Community Based Transportation Planning Grant as authorized by City Council, and

WHEREAS, Caltrans reviewed the grant application and awarded a $100,000 Community Based Transportation Planning Grant to the City of Modesto, and

WHEREAS, a public meeting was held on December 7th, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place the City Council of the City of Modesto considered accepting the Caltrans Community Based Transportation Planning Grant in the amount of $100,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the $100,000 Community Based Transportation Planning Grant from Caltrans, and authorizes the $12,500 matching funds, including $10,000 from Local Transportation Funds and $2,500 in-lieu staff time.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents, agreements, MOUs and other documentation needed to carry out the business of the Community-Based Transportation Planning Grant on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-498

Print

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 MULTI-YEAR OPERATING GRANT FUND BUDGET TO ESTABLISH A NEW MULTI-YEAR BUDGET FOR THE COMMUNITY BASED TRANSPORTATION PLANNING GRANT AND TO APPROPRIATE $100,000 IN GRANT REVENUE AND EXPENSE

WHEREAS, the California High Speed Rail Authority and the Altamont Commuter Express are considering extensions of service to and through downtown Modesto, and

WHEREAS, on January 12, 2010, the City Council, by motion, supported passenger rail service in downtown Modesto, and

WHEREAS, on March 23, 2010, the City Council, by Resolution No. 2010-122, a grant application to Caltrans for a Community Based Transportation Planning Grant in the amount of $100,000 with a match of $12,500, $10,000 from Local Transportation Funds and $2,500 from in-lieu staff time, and

WHEREAS, the Community & Economic Development Department submitted a grant application to Caltrans for a Community Based Transportation Planning Grant as authorized by City Council, and

WHEREAS, Caltrans reviewed the grant application and awarded a $100,000 Community Based Transportation Planning Grant to the City of Modesto, and

WHEREAS, a public meeting was held on December 7th, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place the City Council of the City of Modesto considered accepting the Caltrans Community Based Transportation Planning Grant in the amount of $100,000, and

WHEREAS, at that same public meeting on December 7th, 2010, the City Council of the City of Modesto considered amending the General Fund and Local Transportation Fund budgets to establish a new multi-year budget for the Community Based Transportation Planning Grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 Multi-Year Operating Grand Fund budget is hereby amended to establish a new multi-year budget for the Community Based Transportation Planning Grant.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-499

Print

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 LAND TRANSPORTATION FUND BUDGET BY TRANSFERRING $5,000 FROM 0510-430-4310-1213 AND $5,000 FROM 6540-480-1672-3158 TO THE NEW MULTI-YEAR BUDGET ESTABLISHED FOR THE COMMUNITY BASED TRANSPORTATION PLANNING GRANT

WHEREAS, the California High Speed Rail Authority and the Altamont Commuter Express are considering extensions of service to and through downtown Modesto, and

WHEREAS, on January 12, 2010, the City Council, by motion, supported passenger rail service in downtown Modesto, and

WHEREAS, on March 23, 2010, the City Council, by Resolution No. 2010-122, approved a grant application to Caltrans for a Community Based Transportation Planning Grant in the amount of $100,000 with a match of $12,500, $10,000 from Local Transportation Funds and $2,500 from in-lieu staff time, and

WHEREAS, the Community & Economic Development Department submitted a grant application to Caltrans for a Community Based Transportation Planning Grant as authorized by City Council, and

WHEREAS, Caltrans reviewed the grant application and awarded a $100,000 Community Based Transportation Planning Grant to the City of Modesto, and

WHEREAS, a public meeting was held on December 7th, 2010, at the Modesto City Hall, in the basement Council Chambers, located at 1010 10th Street, Modesto, California, at which time and place the City Council of the City of Modesto considered

accepting the Caltrans Community Based Transportation Planning Grant in the amount of $100,000, and

WHEREAS, at that same public meeting on December 7th, 2010, the City Council of the City of Modesto considered amending the General Fund and Local Transportation Fund budgets to establish a new multi-year budget for the Community Based Transportation Planning Grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2010-2011 Land Transportation Fund budget be amended by transferring $5,000 from 0510-0430-4310-1213 and $5,000 from 6540-480-1672-3158 to the new multi-year budget established for the Community Based Transportation Planning Grant.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-500

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN STANISLAUS COUNTY PUBLIC WORKS DEPARTMENT AND THE CITY OF MODESTO COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT, IN THE AMOUNT OF $73,559.52, FOR 4,442 SQUARE FEET OF OFFICE SPACE LOCATED ON THE 3RD FLOOR OF TENTH STREET PLACE

WHEREAS, the City of Modesto's vision for the delivery of development related services is based on the creation of a true "one-stop shop", and

WHEREAS, a single location where developers and citizens can receive all the necessary review, approval and permits required for their project, and

WHEREAS, during the last several years, the Community and Economic Development Department has gone through several organizational changes, moving closer to the "one-stop shop", and

WHEREAS, divisions from Parks, Recreation and Neighborhoods, Public Works and Utility Planning and Projects were transferred to Community and Economic Development, and

WHEREAS, these divisions were located on the 4th floor, while the primary offices of Community and Economic Development are located on the 3rd floor, and

WHEREAS, City staff learned that Stanislaus County Public Works Department was planning to vacate their space and move their operations to the County offices on Hackett Road, and

WHEREAS, staff began assessing the space needs of those divisions located on the 4th floor to determine if a move to the 3rd floor was feasible, and

WHEREAS, staff initiated talks with County staff to discuss the cost of assuming occupancy of some or all of the space occupied by Public Works, and

WHEREAS, Community and Economic Development staff began discussions with Information Technology staff to determine if the 4th floor space was suitable for occupancy by City Core Team staff and consultants for the ERP project, and

WHEREAS, Community and Economic Development staff entered into a tentative agreement to occupy a portion of the 3rd floor space formerly occupied by Stanislaus County Public Works, and

WHEREAS, staff also entered into Memorandum of Understanding agreements with the City Information Technology Department and Utility Planning and Projects Department to occupy Community and Economic Development space located on the 4th floor, as well as a Memorandum of Understanding agreement with Stanislaus County Public Works Department to occupy Community and Economic Development space on the 4th floor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding between Stanislaus County Public Works Department and City of Modesto Community and Economic Development Department in the amount of $73,559.52 for 4,442 square feet of office space on the 3rd floor of Tenth Street Place.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding

. The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-501

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 BUDGET TO INCREASE REVENUES AND EXPENSES IN THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT BUDGET TO RECOGNIZE $35,649.24 IN REVENUE AS A RESULT OF THREE AGREEMENTS FOR OFFICE SPACE ON THE 4TH FLOOR OF TENTH STREET PLACE AND INCREASE THE EXPENSE BUDGET BY $35,649.24 TO ALLOW FOR PAYMENT TO THE COUNTY UNDER THE MOU AGREEMENT FOR THE 3RD FLOOR SPACE

WHEREAS, the Community and Economic Development Department entered into Memorandum of Understanding Agreements with Information Technology for 3,765 square feet in the amount of $29,333, Utility Planning and Projects for 468 square feet in the amount of $2,525.44 and Stanislaus County Public Works Department for 216 square feet in the amount of $3,790.80 for the use of vacated office space on the 4th floor of Tenth Street Place, and

WHEREAS, the Community and Economic Development Department will be using the $35,649.24 in revenue collected from these agreements for payment to Stanislaus County under the Memorandum of Understanding Agreement for 4,449 square feet of space on the 3rd floor of Tenth Street Place,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 budget to increase revenues and expenses in the Community and Economic Development Department budget to recognize $35,649.24 in revenue as a result of three agreements for office space on the 4th floor of Tenth Street Place and increase the expense budget by $35,649.24 to allow for payment to the County under the Memorandum of Understanding Agreement for the 3rd floor space of Tenth Street Place.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-502

RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 ANNUAL OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2010-2011 budgets have been adjusted as shown in **Exhibit A**, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Director of Finance, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FINANCE

An adjustment is necessary to recognize unbudgeted revenue in the amount of $17,206 related to a CMAQ Grant for Capital Improvement Project E016, New Traffic Signals 2010 in the Streets CFF fund (Fund 1410). When the project was originally created it was assumed that there would be an 11% funding match needed from Fund 1410, Streets CFF. Since that time the grant authorization/agreement summary document has been received by the City of Modesto and it revealed that the project was awarded 100% of CMAQ funding.

PARKS, RECREATIONS AND NEIGHBORHOODS

An adjustment is necessary to increase the expense budget in the amount of $ 33,500 to pay for mechanical engineering services in the Solid Waste Division in the Solid Waste fund (Fund 6290). These funds will be appropriated from fund reserves to satisfy the City of Modesto's matching fund contributions in EECBG projects.

An annual transfer from the Community Center Operations fund (Fund 6700) to the Centre Plaza Furniture, Fixtures and Equipment fund (Fund 6710) was inadvertently excluded from the Fiscal Year 2010-11 budget. An adjustment is necessary to budget the transfer in the amount of $77,941.

PUBLIC WORKS/UTILITY PLANNING & PROJECTS

An adjustment is necessary to transfer $600,000 from Capital Improvement Project (CIP) B577, Renewal/Replace Jennings Treatment Plant – Primary to Capital Improvement Project (CIP) B576, Renewal/Replace – Operations and Maintenance in the Wastewater fund (Fund 6210). During the FY 2010-11 CIP process it was determined that Water Quality Control would combine the two Renewal and Replacement accounts for Sutter Treatment Plant and Jennings Treatment Plant into the Renewal and Replacement – Operations and Maintenance account. These projects are currently in process and scheduled for completion by June 2011.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-503

RESOLUTION DECLARING APPARATUS AND EQUIPMENT SURPLUS, AND AUTHORIZING THE DISPOSAL OF SAID APPARATUS AND EQUIPMENT BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, TRADE, OR DONATION

WHEREAS, the 1989 Pierce fire apparatus has reached the end of its useful life with the Fire Department, and

WHEREAS, the 1968 International Airport Rescue Firefighting apparatus, City Asset Number 85060, has been replaced through a Airport Improvement Grant, and is no longer needed, and

WHEREAS, the 1998 Pierce Arrow fire engine has had numerous pump failures and throttle issues, and

WHEREAS, thousands of dollars have been committed to remediate this problem without resolution, and

WHEREAS, it is no longer economically sound to continue to commit funding to this apparatus, and

WHEREAS, in 2009, the City obtained, through the Modesto-Ceres Industrial Fire Protection District Joint Powers Authority, ownership of a 1951 Mack Fire Engine, and

WHEREAS, the Mack Fire Engine has no firefighting value to the Department, and

WHEREAS, outside of apparatus the Department has continued to hold a cache of equipment such as rescue tools, Cutters Edge saw equipment, hose, nozzles, pumps and radios, that has been removed from service for a number of reasons, and

WHEREAS, this equipment is no longer useful to the platform of fire and life safety services provided,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the apparatus and equipment listed on **Attachment A** as surplus.

BE IT FURTHER RESOLVED that the Council hereby authorizes the disposal of said apparatus and equipment Listed on **Attachment A** by sealed bid, consignment, public auction, online auction, trade or donation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

COUNCIL REPORT

Surplus Equipment

ATTACHMENT 'A'

DESCRIPTION	MAKE	MODEL	YEAR	QUANTITY	REASON THIS IS SURPLUS
Fire Engine	Pierce	Aero	1989	1	Has exceeded its useful and economically sound life.
Airport Rescue Firefighter	International	ARFF	1968	1	Has exceeded its useful life.
Fire Engine	Pierce	Aero	1998	1	Has exceeded it economically sound life.
Fire Engine	Mack	405A	1951	1	Has no firefighting value to the City of Modesto
Hose – 1-1/2" – 50' lengths	???	???	n/a	193	This hose format is no longer used by Modesto Fire Department
Generator, Honda	Honda	EG5000X	n/a	1	Removed from previously surplused apparatus
Power Supply	Hurst	E70039	n/a	1	Removed from service
Multi-Tool Manifold Block	Hurst			1	Removed from service
Equipment Hoses	Hurst			3	Removed from service
Spreader	Hurst	JL32	n/a	1	Removed from service
Spreader	Hurst	ML32	n/a	2	Removed from service
Ram	Hurst	JL30	n/a	1	Removed from service
Cutters	Hurst	JL150	n/a	3	Removed from service
Extractors	Hurst		n/a	2	Removed from service
Floto Pumps				3	Removed from service
Radios	Motorola	HT1000	Various	16	Radios were replaced, using grant funding, with radios that meet current P25 digital
Radio Mics	Motorola	NMN6191C	Various	13	Removed from service
Radio Mics	Motorola	NMN6193C	Various	4	Removed from service

COUNCIL REPORT
Surplus Equipment
ATTACHMENT 'A'

Nozzles:					
Combination Nozzle	Akron	1715	-	35	This platform is no longer used
1.25" Nozzle	KK	Thunder Fog	-	2	This platform is no longer used
Combination Nozzle	Akron	1722	-	40	This platform is no longer used
1.75" Tip	TFT	-	-	6	This platform is no longer used
Combination 1.75" Tip	KK	-	-	13	This platform is no longer used
1.5" wildland bales with 1"	-	-	-	15	This platform is no longer used
1" wildland combination tips	-	-	-	25	This platform is no longer used
1" reel line nozzle	Akron	1701		5	This platform is no longer used
Fog Nozzle - 1/75"	TFT	-	-	3	This platform is no longer used
2.5" to 1.5" Playpipe Bale	Akron	-	-	4	This platform is no longer used
Low Pressure Combination Tip	Akron	4822	-	3	This platform is no longer used
1.5" bubble cup nozzle	-	-	-	2	This platform is no longer used
1" Bubble Cup Nozzle	-	-	-	1	This platform is no longer used
Combination Tip for Monitor	Akron	1755	-	3	This platform is no longer used

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-504

Print

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SENIOR CENTER ENERGY EFFICIENCY PROJECT - HVAC/ROOF REPLACEMENT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH JHK CONSTRUCTION, INC., OF ESCALON, CA, IN THE AMOUNT OF $210,740, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Senior Center Energy Efficiency Project - HVAC/Roof Replacement and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Senior Center Energy Efficiency Project - HVAC/Roof Replacement were opened at 11:00 a.m. on October 26, 2010, and later tabulated by the Director of Parks, Recreation & Neighborhood for the consideration of the Council, and

WHEREAS, the Director of Parks, Recreation & Neighborhood has recommended that the bid of $210,740 received from JHK Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to JHK 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 Senior Center Energy Efficiency Project - HVAC/Roof Replacement, accepts the bid of JHK Construction, Inc., of Escalon, CA, in the amount of $210,740, and awards JHK Construction, Inc. the contract for the Senior Center Energy Efficiency Project - HVAC/Roof Replacement.

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 December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-505

Print

RESOLUTION APPROVING A LEASE AGREEMENT WITH PERFORMANCE MODULAR, INC., ELK GROVE, CA, FOR A PERIOD OF THREE YEARS, FOR A RESTROOM MODULAR AT THE JENNINGS WASTEWATER TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED $62,503; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, the Jennings Wastewater Treatment Plant has increased its staff due to changes in the processes at the site, and

WHEREAS, the Maintenance Facility is utilized by the Operations Supervisor, WQC Plant Maintenance Supervisor, an Administrative Office Assistant III, and 11 other staff members, and

WHEREAS, this facility has one unisex restroom that opens directly into the training/meeting/lunchroom, and

WHEREAS, the 2007 California Plumbing Code Section 412.3 indicates that "separate toilet facilities shall be provided for each sex," and

WHEREAS, in order to meet the requirements of this Code and ADA requirements, staff requested quotes from several vendors for a Restroom Modular, and

WHEREAS, staff requested lease quotes from three vendors, and determined that Performance Modular, Inc. provided the best modular for the best price, and

WHEREAS, staff recommends approval of a three-year lease with Performance Modular, Inc., and

WHEREAS, funds are budgeted in Account No. 6210-480-5214-0223 for this lease,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Lease Agreement with Performance Modular, Inc., Elk Grove, CA, for a period of three years, at an amount not to exceed $62,503.

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 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-506

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE "PELANDALE AVENUE DRAINAGE PUMP STATION" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $306,074.80

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Pelandale Avenue Drainage Pump Station project has been completed by Preston Pipelines, Inc., in accordance with the contract agreement dated May 12, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Pelandale Avenue Drainage Pump Station project is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, release securities upon expiration of statutory periods, and that payment of amounts totaling $306,074.80 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-507

Print

RESOLUTION APPROVING AN AGREEMENT WITH TERESA ANN ALLEN, TRUSTEE OF THE TERESA ANN ALLEN LIVING TRUST, UDT DECEMBER 20, 2001, FOR A 0.03-ACRE (1,322 SQ. FT.) PARCEL IN FEE, AND A 0.03-ACRE (1,102 SQ. FT.) PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 3400 ROSELLE AVENUE (APN 085-001-038), IN THE AMOUNT OF $6,296, FOR THE ROSELLE AVENUE WIDENING BETWEEN FLOYD & SYLVAN PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on July 9, 2009, the City Council, by Ordinance No. 3516-C.S., approved proceeding with the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, as part of the Capital Improvement Program, certain City streets have been identified for widening, and

WHEREAS, staff has identified eight parcels along the east side of Roselle Avenue for a widening project to widen Roselle Avenue, between Floyd and Sylvan Avenues, from two lanes to four lanes, to include curb, gutter, sidewalks, median, landscaping and street lighting, to improve traffic flow and reduce congestion, and

WHEREAS, the property needs to be acquired for this street widening project, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Teresa Ann Allen, Trustee of the Teresa Ann Allen Living Trust, udt December 20, 2001, for a 0.03-acre (1,322 sq. ft.) parcel in fee, and a 0.03-acre (1,102 sq. ft.) portion for a Temporary Construction Easement of a parcel

located at 3400 Roselle Avenue (APN 085-001-038), in the amount of $6,296, for the Roselle Avenue Widening Between Floyd & Sylvan Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-508

Print

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 3400 ROSELLE AVENUE (APN 085-001-038), OWNED BY TERESA ANN ALLEN, TRUSTEE OF THE TERESA ANN ALLEN LIVING TRUST, UDT DECEMBER 20, 2001, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE ROSELLE AVENUE WIDENING BETWEEN FLOYD & SYLVAN PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 0.03-acre (1,322 sq. ft.) portion of a 3.1-acre parcel of land located on Roselle Avenue within the project area, owned by Teresa Ann Allen, Trustee of the Teresa Ann Allen Living Trust (APN 085-001-038), to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd and Sylvan Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificate of Acceptance Forms for the Grant Deed and Grant of Temporary Construction Easement for the acquisition of a portion of a parcel of land located at 3400 Roselle Avenue (APN 085-001-038), owned by Teresa Ann Allen, Trustee of the Teresa Ann Allen Living Trust, udt December 20, 2001, to be purchased by the City of Modesto for the Roselle Avenue Widening Between Floyd & Sylvan Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-509

Print

RESOLUTION APPROVING THE FACILITIES MASTER PLAN AND INFRASTRUCTURE FINANCING PLAN FOR THE INFRASTRUCTURE NECESSARY TO SUPPORT THE DEVELOPMENT OF APPROXIMATELY 70 ACRES LOCATED SOUTH OF BANGS AVENUE, WEST OF AMERICAN AVENUE, EAST OF DALE ROAD, AND NORTH OF PELANDALE AVENUE, ALSO KNOWN AS KIERNAN BUSINSS PARK SOUTH

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt Specific Plans for the systematic implementation of the General Plan and to provide for greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, the Modesto Urban Area General Plan includes a policy that requires the preparation of a comprehensive plan for all Comprehensive Planning Districts, and

WHEREAS, the Modesto Urban Area General Plan allows the implementation of a comprehensive plan through Specific Plans, as defined by Government Code Section 65450 et. seq., and

WHEREAS, the Kiernan Business Park Specific Plan area is located in the western portion of the Kiernan/Carver Comprehensive Planning District that consists of a total of 1,380 acres, and

WHEREAS, the Kiernan Business Park South project area (Project) is located south of Bangs Avenue, west of American Avenue, east of Dale Road and north of Pelandale Avenue, and

WHEREAS, the Facilities Master Plan (FMP) and Infrastructure Financing Plan (IFP) are planning documents that will guide future infrastructure development and are required by the Kiernan Business Park Specific Plan, and

WHEREAS, the potential environmental impacts from the Project are covered by Mitigated Negative Declaration EA/C&ED No. 2006-58 entitled: "Kiernan Business Park South Facilities Master Plan/Infrastructure Financing Plan and Mana/Wagner Vesting Tentative Parcel Maps (SCH No. 2007-09029), previously certified on October 15, 2007, and

WHEREAS, on November 1, 2010, the Planning Commission held a duly noticed public hearing to consider the Kiernan Business Park South FMP and IFP in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing the Planning Commission recommended the Kiernan Business Park South FMP and IFP for City Council approval, and

WHEREAS, on December 7, 2010, the City Council held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed Kiernan Business Park South FMP and IFP was considered,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby finds as follows:

1. The proposed Facilities Master Plan and Infrastructure Financing Plan supply the necessary information for the development of the infrastructure necessary to develop the "Project-Specific" facilities for Kiernan Business Park South.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that the drainage basins or structure locations depicted in the FMP may be modified as required.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the Kiernan Business Park South Facilities Master Plan and Infrastructure

Finance Plan on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the Kiernan Business Park South FMP and IFP. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, 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:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-510

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH NO. 2010062086): MANA-WAGNER DEVELOPMENT AGREEMENT. (MANA-DEVELOPMENTS AND HANS WAGNER)

WHEREAS, Mana Developments, a California General Partnership and Hans Wagner, have applied for a Development Agreement for the development of 28.5 acres in the Kiernan Business Park Specific Plan, which includes provisions regarding the development of the site, processing of future entitlements, payment of fees and taxes, installation of public infrastructure, and implementation of environmental mitigation measures, property located on the south side of Bangs Avenue, east of American Avenue and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declaration (EA/C&ED No. 2009-22) provides for a lead agency to prepare an Initial Study on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Community and Economic Development has prepared an Initial Study/Mitigated Negative Declaration as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/ Mitigated Negative Declaration began on June 29, 2010 and ended on July 30, 2010, and

WHEREAS, the City received public comments on the draft Initial Study/ Mitigated Negative Declaration and no changes to the document were necessary as a result, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 7, 2010, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study (SCH No. 200709029), Environmental Assessment No. EA/C&ED 2009-22 and Mitigation Monitoring and Reporting Program prepared for the Mana-Wagner 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 Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects;

2. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the applicant, which will avoid or mitigate the effects to a point where clearly no significant effect will occur;

3. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2));

4. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency;

5. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is on file with the City Clerk;

6. The Initial Study, Environmental Assessment No. EA/C&ED 2009-22, provides the substantial evidence to support findings 1-5, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file

a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, 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:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study & Mitigation Monitoring and Reporting Program

EA/C&ED No. 2009-22

CITY of MODESTO

INITIAL STUDY AND FINDINGS
MITIGATED NEGATIVE DECLARATION
(EA/C&ED No. 2009-22)

DRAFT

FOR A PROPOSED SUBSEQUENT PROJECT
TO THE MASTER EIR

MANA-WAGNER DEVELOPMENT AGREEMENT

June 2010

TABLE OF CONTENTS

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I. Project Description....2

II. Findings/Determination....7

III. Environmental Analysis....8

IV. Mitigation Measures Applied to the Proposed Project....56

APPENDICIES

A. Barnes, Jeffrey L. City Traffic Engineer, to David Wage, Planning Division, Modesto, CA February 11, 2010

MANA-WAGNER DEVELOPMENT AGREEMENT

PROJECT DESCRIPTION:

1. **Title:** Mana-Wagner Development Agreement

2. **Lead Agency:** City of Modesto, 1010 Tenth Street, Modesto, CA 95354/P. O. Box 642, Modesto, CA 95353

3. **Contact:** Project Manager: David Wage, Associate Planner
Department: Community and Economic Development
Phone Number: 209.577.5267
E-mail address: dwage@modestogov.com

4. **Project Location:** Bounded by Bangs Avenue on the North, Pelandale Avenue on the South, the future Mana Parkway on the West and American Avenue on the East, Modesto, Stanislaus County, CA

5. **Applicant:** Mana Development and Hans Wagner
305 Northwood Drive
Modesto, CA 95350-3139

6. **Current General Plan Designation(s):** Business Park *(Kiernan Business Park Specific Plan)*

7. **Current Zoning Classification(s):** SP *(Specific Plan)*

8. **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):**

In 2006, a Mitigated Negative Declaration was prepared for the 76 acre Kiernan Business Park South Area (KBPS). The project description included a Facilities Master Plan/Infrastructure Financing Plan which analyzed the infrastructure needed for the entire Kiernan Business Park South area.

The proposed project as analyzed in this document is a Development Agreement focusing on the development impacts of two parcels, totaling 28.5 acres of property, located within the Kiernan Business Park Specific Plan area, bounded by Bangs Avenue on the north, Pelandale Avenue on the south and American Avenue on the east. (see **Figure 1 – Area Map**).

The project site is currently zoned SP (Specific Plan) and is planned as Business Park under the 2003 Urban Area General Plan and the Kiernan Business Park Specific Plan. In accordance with the Modesto Municipal Code, development of properties within the SP zone district shall comply with the uses, standards and development review procedures of the adopted Specific Plan, including all implementation actions. Therefore, development of the properties shall be in accordance with the Kiernan Business Park Specific Plan South Area.

The Development Agreement will address the three phases of development in the project area. Development plans have not been submitted for any of phases at this

time. A Floor Area Ratio (FAR) of 0.30 was used to determine the future development potential for the project site. This is consistent with the assumption used in the 2008 Modesto Urban Area General Plan for Business Park land uses.

Phase I

Phase I will include the development of 91,000 s.f. of Business Park uses on the northern seven acres of Parcel 1 (APN No. 078-018-027). Build-out of phase 1 is anticipated to occur by 2012.

Phase II

Phase II will include the development of 89,000 s.f. of Business Park uses on the northern 7 acres of Parcel 2 (APN. No. 078-018-021) with build-out anticipated by 2016.

Phase III

Phase 3 will include 97,000 s.f. of Business Parks uses on the southern portion of Parcel 1 (APN No. 078-018-027) with build-out anticipated by 2019.

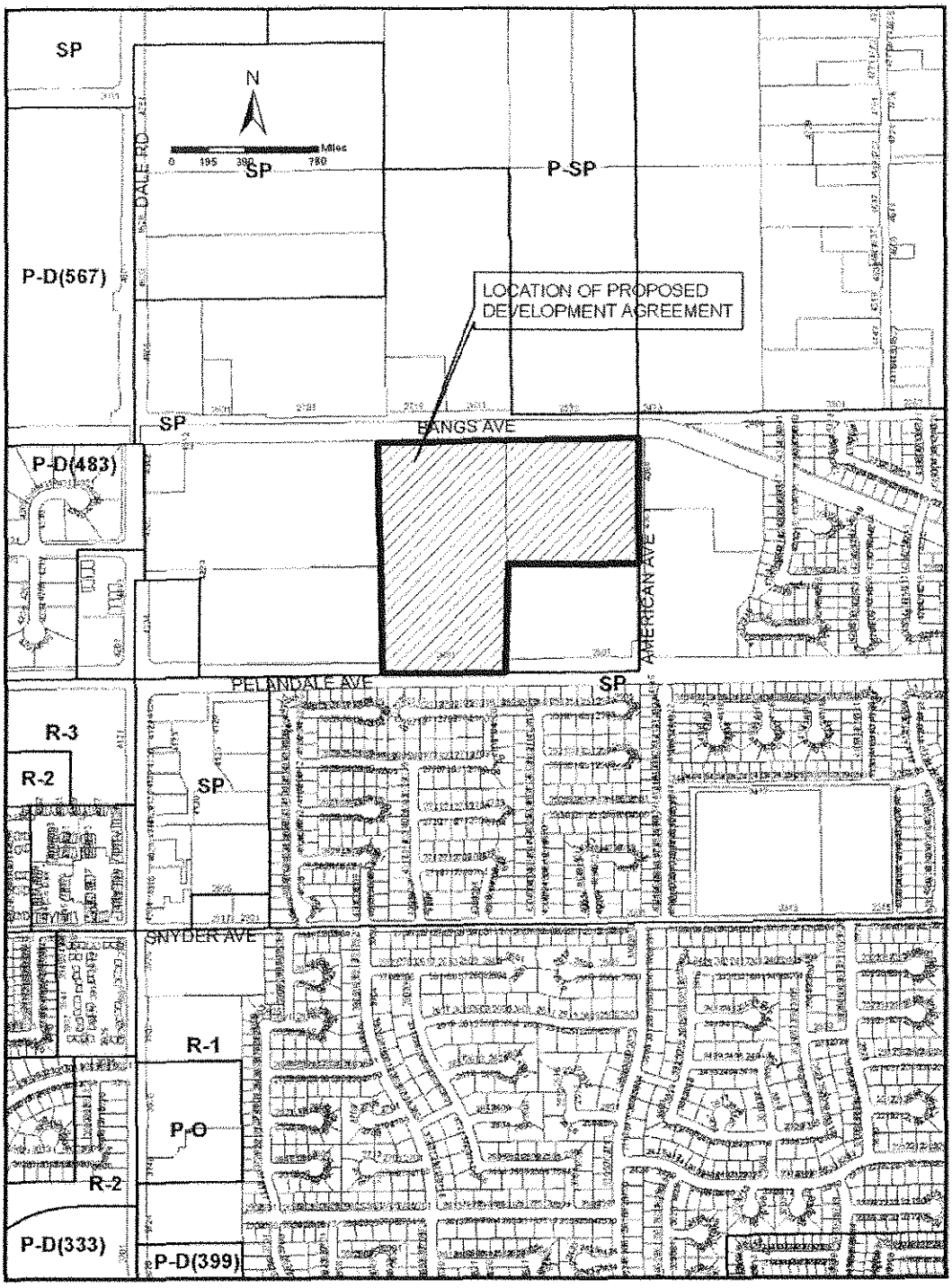
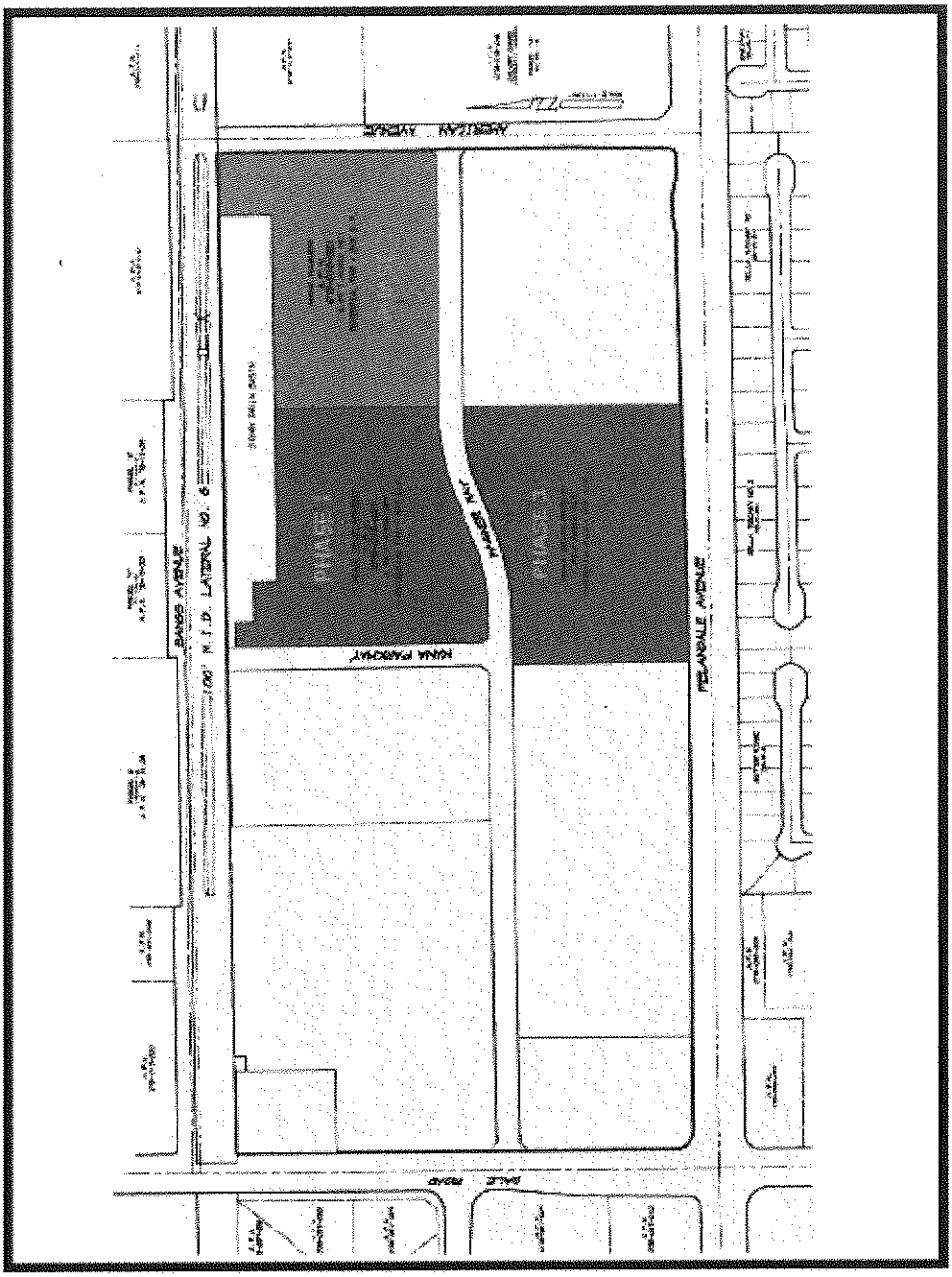

SP
N
0 195 390 780 Miles
DALE RD
SP
P-SP
P-D(567)
LOCATION OF PROPOSED DEVELOPMENT AGREEMENT
SP
BANGS AVE
P-D(483)
AMERICAN AVE
PELANDALE AVE
SP
R-3
R-2
SP
SNYDER AVE
R-1
P-O
R-2
P-D(333)
P-D(399)

Figure 1



PROJECT PHASING FOR MANA-WAGNER
DEVELOPMENT AGREEMENT
DEV-09-001

Figure 2

9. Surrounding Land Uses:

	Zone District	Planned Land Use	Existing Use
North	SP *(Specific Plan)*, P-SP *(Prezone Specific Plan)*	Business Park (existing); Business Park, Mixed Used, Medium-High Density Residential (proposed under Kiernan Business Park East plan amendment)	Rural Residential, Agricultural
South	SP *(Specific Plan)*	Residential	Single-Family Residential
East	SP *(Specific Plan)*	Village Residential	Church
West	PD-576 *(Planned Development)*, SP *(Specific Plan)*	Business Park	Church, Bank

10. Other Public Agency Approvals:

None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

[ ]	Aesthetics	[ ]	Agriculture Resources	[ ]	Air Quality
[X]	Biological Resources	[ ]	Cultural Resources	[ ]	Geology/Soils
[ ]	Hazards & Hazardous Materials	[ ]	Hydrology/Water Quality	[ ]	Land Use/Planning
[ ]	Mineral Resources	[ ]	Noise	[ ]	Population/Housing
[ ]	Public Services	[ ]	Recreation	[X]	Transportation/Traffic
[ ]	Utilities/Service Systems	[ ]	Mandatory Findings of Significance		
[ ]	Climate Change				

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.
[X]	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.

David Wage — Signature

6/15/10 — Date

David Wage — Printed Name

Associate Planner — Title

EVALUATION OF ENVIRONMENTAL IMPACTS:

I. AESTHETICS

The General Plan Master EIR was certified for the Modesto Urban Area General Plan. It did not specifically address aesthetic issues and no significant effects on aesthetics were identified.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. **AESTHETICS** – Would the project:				
a) Have a substantial adverse effect on a scenic vista?	[ ]	[ ]	[ ]	[X]
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	[ ]	[ ]	[ ]	[X]
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	[ ]	[ ]	[X]	[ ]
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

The project is located in the northern portion of the City of Modesto along the south side of Bangs Avenue, between Dale Road and American Avenue. The Project site is currently being used as agricultural land. The site is bordered to the south by Pelandale Road, with existing single-family residential development across Pelandale. To the east of the project site is an existing church, across American Avenue. The area west of the project site is partially developed with a church and bank. To the north is existing rural residential with agricultural uses, across Bangs Avenue. The Kiernan Business Park East project located north of the subject property to the north, which proposes a plan amendment for business park, mixed use and medium-high density residential land uses. The project site is planned in the Modesto Urban Area General Plan for business park development, and the proposed project is consistent with this land use designation.

(a) ***No Impact.*** The proposed project will have no new impact on scenic vistas, if developed in accordance with existing City policies. There are no identified scenic vistas on or within the vicinity of the project site. Development of the project would have no impact on scenic views from public open spaces or other sites accessible to the general public.

(b) ***No Impact.*** The nearest scenic resource to the site is the Stanislaus River, located over 2 miles to the north of the site. The Stanislaus River is not visible from the subject site, nor is the site visible from the river or its banks, and development on the subject site will not obstruct views of the Stanislaus River.

(c) ***Less Than Significant Impact.*** The proposed project would occur on 28.5 acres of agricultural land which currently farmed with row crops. The existing visual character would change to that of a business park. This change in the existing visual character on the site is consistent with that expected from similar development in Modesto and anticipated by the Urban Area General Plan and the Master EIR.

(d) ***Less Than Significant Impact.*** Light and glare expected to occur as a result of development on the subject site is consistent with that expected from similar business park development in Modesto and anticipated by development in conformance with the General Plan and Kiernan Business Park Specific Plan.

New Mitigation Measures:

No new mitigation measures are required.

II. AGRICULTURAL RESOURCES

Section V-4.B of the MEIR and section IV.F of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Agricultural Lands impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
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) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

The proposed project is located in an area designated by the General Plan and the Kiernan Business Park Specific Plan for urban development. Although the project site is designated Important Farmland by the California Department of Conservation, the area has long been committed to conversion from agricultural use, which has been addressed in the Urban Area General Plan and the Master EIR. The site is not subject to a Williamson Act contract.

(a) ***Less Than Significant Impact.*** The project site is considered Important Farmland, as shown on Figure V-4-1 in the Urban Area General Plan Master EIR: however, the site has been annexed to the City since 1999 and development on the site was anticipated under the Modesto Urban Area General Plan MEIR. Therefore, the Statement of Overriding Considerations previously adopted under the MEIR for conversion of agricultural land has acknowledged development of the subject site with non-agricultural land uses and would be a significant, unavoidable impact. This impact is therefore not a new significant impact, but is an impact that was previously identified, and overridden, under the MEIR.

(b) ***Less Than Significant Impact.*** The project site lies entirely within the 2008 Urban Area General Plan boundary on a site zoned SP (Specific Plan) and there are no Williamson Act contracts on the property. Conversion of farmland within the Modesto Urban Area General Plan was anticipated under the Master EIR.

(c) ***Less Than Significant Impact.*** The changes expected to occur as a result of development of the subject site will tend to increase pressure to develop nearby agricultural land. However, these changes and development pressures are consistent with those normally expected as a result of development and were anticipated in the Master EIR.

New Mitigation Measures:

No new mitigation measures are required.

III. AIR QUALITY

Section V-2.B of the MEIR and section IV.B of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Air Quality impacts of development of the General Plan and Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Expose sensitive receptors to substantial pollutant concentrations?	[ ]	[ ]	[X]	[ ]
b) Produce more than 10 tons/year of ROG	[ ]	[ ]	[X]	[ ]
c) Produce more than 10 tons/year of NOx	[ ]	[ ]	[X]	[ ]
d) Exceed NAAQS or CAAQS for CO (9ppm 8-hour average; 20 ppm 1-hour average)?	[ ]	[ ]	[X]	[ ]
e) Not comply with the SJVAPCD's Regulation VIII regarding particulate matter emissions from construction activities?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

MEIR AQ-20
To be consistent with the SJVAPCD's Air Quality Guidelines for General Plans, the City of Modesto should determine air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD. (General Plan Policy VII-H.2 [n])

MEIR AQ-26
Review of new development shall be coordinated with SJVAPCD's staff to ensure all projects subject to the SJVAPCD rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through design features and onsite approval for a development project, or any portion thereof, which upon full buildout will include any of the following:

- 50 residential units
- 2,000 square feet of commercial space
- 25,000 square feet of light industrial space
- 100,000 square feet of heavy industrial space
- 20,000 square feet of medical office space
- 39,000 square feet of general office space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of recreational space
- 9,000 square feet of space not identified above. (General Plan Policy VII-H.2[u])

MEIR AQ-40
The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AQ-42

All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-45

With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

MEIR AQ-46
When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

MEIR AQ-47
All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

MEIR AQ-48
Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

MEIR AQ-49
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

MEIR AQ-50
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

MEIR AQ-51
Limit traffic speeds on unpaved roads to 15 mph; and

MEIR AQ-52
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

MEIR AQ-53
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

MEIR AQ-54
Install wind breaks at windward side(s) of construction areas.

MEIR AQ-55
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

MEIR AQ-56
Limit the area subject to excavation, grading and other construction activity at any one time.

Discussion:

A project such as this was anticipated in the General Plan Master EIR. The project site lays within the City's boundary at the time the Master EIR was updated in 2008, and is designated for Business Park development in the General Plan and the Kiernan Business Park Specific Plan. In accordance with MEIR Mitigation Measure MEIR AQ-26, the project will be referred to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) for comments.

(a) ***Less Than Significant Impact.***

Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. However, the project site is located in an area designated for primarily business park uses and is not directly adjacent to sensitive receptors. Further, uses permitted within the Business Park land use designation would not create objectionable odors that would affect a substantial number of people.

(b-e) ***Less Than Significant Impact.***

Future development on the subject property will include the removal of existing orchards and the development of business park uses on approximately 29 acres of land. The proposed project is consistent with the Business Park land use designation in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan. Existing residential land uses are located to the south of the project site, across Pelandale Avenue. Air pollution emissions associated with the proposed project would result from construction activities, increased traffic volumes and operating activities. The net increase in emissions generated by these activities and other secondary sources have been estimated and compared to thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District.

Short-Term Construction-Generated Emissions

Emissions produced during site preparation and construction is short-term because it occurs only during the construction phase. Dust generation is normally the primary concern during demolition and initial site preparation. Because such emissions are not amenable to collection and discharge through a controlled source, they are called fugitive emissions. Fugitive dust emissions typically include emissions from on-site grading and excavation activities and from off-site truck and passenger car travel on unpaved roadways. Fugitive dust emission rates are affected by a variety of factors, including amount and type of exposed soil, amount of soil moisture, wind speed, number of vehicles and pieces of equipment in operation at one time, depth of disturbance or excavation, and the number of vehicle miles traveled. Fugitive dust emissions are measured as PM10. In addition, emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) are generated primarily by the operation of gasoline- and diesel-powered motor vehicles. Construction-generated emissions vary from day to day, depending on the specific activities being conducted, the type of equipment, duration or equipment use, and the number of transport trips for construction workers and material. Actual pollutant concentrations depend on various factors, including the location and type of activities performed, meteorological conditions, distances to nearby receptors, and the effectiveness of the mitigation measures employed.

As shown in **Table III-1** below, the short-term construction-generated emissions have been modeled based on the construction (demolition, grading, paving, construction, and architectural

coatings) of the new business park buildings and associated parking and site improvements for each phase. The model shows that NOx emissions during construction could reach a maximum of 9.18 tons per year (Phase I), while ROG emission could each a maximum of 2.00 ton per year (Phase I). The SJVAPCD thresholds of 10 tons per year of ROG and NOx would not be violated during project construction. PM10 emissions could reach a maximum for 5.14 ton per year for construction in the year 2017 (Phase III). PM10 emissions would be below the District's threshold of 15 tons/year and would not pose a significant effect on sensitive receptors or contribute to air quality violations.

Table III-1.
Summary of Modeled Short-Term Construction-Generated Emissions

Source	Emissions (tons/year)[1]		
	ROG	**NOx**	**PM10**
Phase I	2.00	9.18	4.56
Phase II	1.53	7.46	4.93
Phase III	1.40	5.41	5.14
Total Unmitigated	**4.93**	**22.05**	**14.66**
SJVUAPCD Significance Threshold	*10*	*10*	*15*

[1] *Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.2.4 computer model and represent worst-case yearly conditions.*

Compliance with SJVVUAPCD Rule 9510 and Regulation VIII, as required by law would result in a reduction in NOx emissions and visible emissions from heavy-duty diesel equipment, and would reduce fugitive dust emissions. Rule 9510, the Indirect Source Review, would require the project applicant to submit an Air Impact Assessment to provide information that enables the District to quantify construction, area, and operational PM10 and NOx emissions.

The project is required to comply with SJVUAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures AQ-42 and AQ-56, which identify control measures for PM10 emissions during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project. The controls are required to be implemented at all construction phases and have been incorporated into the project conditions.

Because the construction ROG, NOx and PM10 emissions would not exceed SJVAPCD thresholds, the construction impact would be considered less than significant.

Long-Term Increases in Emissions

No stationary source emissions are anticipated from operation of the business park buildings. Therefore, long-term increases in regional emission of criteria pollutants would be associated primarily with motor vehicle trips following completion of the additional business park buildings. Criteria pollutants are those pollutants, or their precursors, for which the U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards, which are at least as stringent as the National Ambient Air Quality Standards (NAAQS). Although the

proposed project includes various elements designed to reduce mobile source emissions (e.g. located proximal to transit routes and adjacent to a Class I bike path, and incorporation of bus turn-outs), implementation of the proposed project would result in the generation of mobile source emissions, including ROG and NOx, which are both precursors to ozone.

The operational emissions of the project were modeled using URBEMIS 2007, version 9.2.4. Regional area and mobile source emissions were based on proposed land use types and sizes. As shown in **Table III-2** below, the long-term operational emissions for ROG, NOx and PM10 would be below the SJVUAPCD's established significance threshold for each phase of development. Therefore the long-term increases in emissions would be considered a less than significant impact.

Table III-2.
Summary of Modeled Net Increase in Long-Term Operational Emissions

Source	Emissions (tons/year)[1]		
	ROG	**NOx**	**PM10**
Area Source			
Phase I	0.18	0.15	0.00
Phase II	0.18	0.15	0.00
Phase III	0.19	0.15	0.00
Mobile Source			
Phase I	0.57	1.17	0.49
Phase II	0.56	1.15	0.48
Phase III	0.61	1.24	0.52
Total Unmitigated	**2.29**	**4.01**	**1.49**
SJVUAPCD Significance Threshold	*10*	*10*	*15*

[1] *Emissions (from demolition, site grading, and building) modeled using URBEMIS 2007 9.4.2 computer model and represent worst-case yearly conditions.*

CO Emissions

Carbon monoxide (CO) concentration is a direct function of vehicle idling times and, thus, traffic flow conditions. Under specific meteorological conditions, CO concentrations near congested roadways and/or intersections may reach unhealthy levels with respect to local sensitive land-uses as residential areas, schools, and hospitals. As a result, the SJVUAPCD recommends analysis of CO emissions at a local rather than regional level.

The Transportation Project-Level Carbon Monoxide Protocol (Garza et al. 1997) states that signalized intersections at level of service (LOS) E or F represent a potential for a CO violation, also known as a hot spot. Thus, modeling of CO concentrations is typically recommended for receptors located near signalized roadway intersections that are projected to operate at LOS E or F. The SJVUAPCD has established preliminary screening criteria to determine with fair certainty that if not violated, project-generated long-term operational local mobile-source

emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 parts per million (ppm) or the 8-hour standard of 9 ppm, respectively. SJVUAPCD's preliminary screening criteria include the following:

1) A traffic study for the project indicates that the LOS on one or more streets or at one or more intersections in the project vicinity will be reduced to LOS E or F; or
2) A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at one or more intersections in the project vicinity.

According to the Traffic Impact Analysis (TIA) prepared for this project (*refer to Section XV, Traffic and Circulation*), the project would not cause any intersection to deteriorate from acceptable LOS (D or better) to unacceptable LOS (E or F) under build out of any project phase or cumulative analysis. Nor would the project contribute substantial traffic to intersections that are predicted to operate at LOS E or F without the project. Thus, based on the screening criteria above, project-generated long-term operational local mobile-source emission of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9ppm, respectively. As a result, this impact would be less than significant.

New Mitigation Measures:

No new mitigation measures are required.

IV. BIOLOGICAL RESOURCES/SENSITIVE WILDLIFE AND PLANT HABITAT

Section V-7.B of the MEIR and section IV-F of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Wildlife and Plant Habitat impacts of development of the General Plan and Kiernan Business Park; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
IV. BIOLOGICAL RESOURCES – Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	[ ]	[X]	[ ]	[ ]
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[X]	[ ]	[ ]
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?	[ ]	[X]	[ ]	[ ]
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

MEIR SWPH-9

3(a) For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure V-7-1 (Riparian Corridor Diagram) in the Final Master EIR. Prior to considering development applications, the City shall coordinate with the U.S. Fish and Wildlife Service (USFWS) regarding listed species and potential for impacts. The City shall apply the measures recommended by the USFWS to avoid incidental take.

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the DFG and USFWS. The significant results of such surveys should be recorded onto the City's exiting biological resources map for future planning purposes (UAGP Policy VII-E.3[a]).

KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat
Mitigation Measure B-1

For all lands within the Planned Urbanizing Area that contain or potentially contain valley riparian, riverine, wetland, grassland, and pasture habitats, site-specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. In particular, proposed development within any lands included within a riparian corridor as delineated on the Riparian Corridor Diagrams shall trigger the need for a site-specific survey and assessment of potential impact to sensitive species or their habitats.

KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat
Mitigation Measure B-2

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes.

All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create isolate and/or fragment habitat that would function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer areas as appropriate tot eh species or habitat involved. Generally, a minimum of 100-foot buffer or undeveloped land would be necessary. The protected habitat shall contribute to the long-term conservation of the species and ecosystems on which they depend.

KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat
Mitigation Measure B-3

Where formally listed species are determined present, consultation shall be carried out with the CDFG and/or USFWS in accordance with the California and/or federal Endangered Species Act. Where candidate or other special status category of species are involved, informal consultation

with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

KBP Specific Plans FEIR: Loss of Sensitive Wildlife and Plant Habitat
Mitigation Measure B-4

Other measures to protect sensitive habitats shall be implemented. These may include the following:

i. Avoid disturbance in wetland areas, including vernal pools and riparian communities along rivers and streams. Avoidance of these areas would include siting structures at least 100 feet from the outermost edge of the wetland. If complete avoidance is not possible, the disturbance to the wetland shall be minimized to the maximum extent possible, with restoration of the disturbed area provided. New vegetation should consist of similar native species to those removed.
ii. Where wetlands or other sensitive habitats cannot be avoided, replacement habitat at a nearby off-site location

Discussion:

The Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan anticipate development on the project site. The project site lies outside of the Environmental Resources Study Area, as identified in the Urban Area General Plan Master EIR Figure V-7-1, which was developed in consultation with the Department of Fish and Game and the Fish and Wildlife Service. However, in accordance with MEIR Mitigation Measure MEIR SWPH-9 and Kiernan Business Park and Carver-Bangs Specific Plans EIR Mitigation Measures No. B-1 and No. B-2, a biological field reconnaissance was conducted by PMC biologists in January of 2007. The information identified below is based upon information presented in the Biological Investigations Report, dated May 29, 2007, contained in Appendix A of this Initial Study.

(a,c-d) ***Less Than Significant with Mitigation Incorporated.*** The Biological Investigation Report conducted a database review as well as field reconnaissance to identify any potential impacts to biological resources. No recorded occurrences of special status species on-site were discovered during review of applicable data from the California Native Plant Society, Department of Fish and Game, and the U.S. Fish and Wildlife Service. Field reconnaissance, conducted in January 2007, confirmed no sensitive species or habitats were present on-site. However, habitat at the site provides suitable opportunities for many avian species, including some raptors and migratory birds. Raptors and raptor nests are considered to be a protected resource by federal and state agencies under the MBTA and California Code of Regulations. Construction could result in direct impacts to nests, eggs and chicks and indirect impacts upon nesting raptors or migratory birds species in the project vicinity resulting from an increase in noise, dust and increased human activity. Further, while it does not support wetland vegetation at the project site, the MID Lateral No. 6 flows from the waterway appear to have connectivity with the Tuolumne River, which is a tributary to the San Joaquin River. Therefore, MID Lateral No. 6 could be considered a jurisdictional waterway under Section 404 of the Clean Water Act, which would require that any fill material or permanent span over this waterway would need to be approved by the U.S. Army Corps of Engineers. In addition, any applicant for a federal license or permit conducting any activity that may result in a discharge of a pollutant into waters of the U.S. must obtain a certification from the Regional Water Quality Control Board that the discharge will comply with applicable effluent limitations and water quality standards. Incorporation of the following mitigation measures would reduce the above identified impacts to a less than significant level.

MM IV.1a: If proposed grading, site preparation, or construction activities are planned to occur during the nesting seasons for local avian species (typically March 1st through August 31st), the project applicant shall retain a qualified biologist approved by the City of Modesto to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 100-feet outside project boundaries, where possible) the construction area no more than 72 hours prior to ground disturbance. If an active nest is located during preconstruction surveys, USFWS and/or DFG (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted, as necessary, to avoid disturbance of the nest until it is abandoned and the consulting regulatory agency deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule.

Timing/Implementation: Prior to obtaining a grading permit.

Monitoring: City of Modesto Community and Economic Development

MM IV.1b: If construction will occur during the non-breeding season (generally September 1st through February 28th), a policy of avoidance and passive relocation (allowing an animal to move out of harms way without any purposeful interference by humans) for any wildlife found onsite shall be implemented for the duration of the project. The appropriate regulatory agency (USFWS or DFG) shall be contacted regarding any species of wildlife refusing to passively relocate from the project area.

Timing/Implementation: During all construction activities.

Monitoring: City of Modesto Community and Economic Development

MM IV.1c: Avoid all impacts to the MID Lateral No. 6. If spanning this channel cannot be avoided, then coordinate with the MID as soon as possible to determine connectivity of the waterway to surrounding creeks and rivers. If connectivity is established, contact the Army Corps of Engineers and Regional Water Quality Control Board to begin the permit process.

Timing/Implementation: The applicant/developer shall determine connectivity of the waterway to surrounding creeks and rivers prior to obtaining a permit for construction of the proposed bridge crossing at MID Lateral No. 6.

Monitoring: City of Modesto Community and Economic Development Department

(b) ***Less Than Significant.*** No sensitive habitat identified in local or regional plans, policies, regulations or by the California Department of Fish and Game of the U.S. Fish and Wildlife Service were present on-site, as verified during the field reconnaissance conducted in January 2007. The project site consisted primarily of common grass species, deciduous orchard and ruderal grass species. No wetlands occur on-site and no

habitat that would support special status species were identified on-site.

(e) ***No Impact.*** There are no trees on the subject property that would qualify for protection as a heritage tree.

(d) ***No Impact.*** There are no Habitat Conservation Plans (HCP), Natural Community Conservation Plans (NCCP) or other approved local, regional or state HCPs that include the project site.

New Mitigation Measures:

Although the proposed project could have a significant effect on Biological Resources/Sensitive Wildlife and Plant Habitat (items a, c and d), there will not be a significant effect in this case because mitigation measures **MM IV.1a**, **MM IV.1b** and **MM IV.1c**, as summarized above, will be added to the project. Therefore, with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates the above-noted mitigation measures into the project, the project would have a less than significant impact on the environment.

V. CULTURAL RESOURCES/ARCHAEOLOGICAL OR HISTORICAL SITES

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.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
V. CULTURAL RESOURCES – Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource or demolition of a listed or eligible historic resource.	[ ]	[ ]	[ ]	[X]
b) Have an adverse effect on any structure more than 50 years old?	[ ]	[ ]	[ ]	[X]
c) Involves the removal of known resources, results in the discovery of undiscovered archeological resources, or involves construction within an area of high sensitivity?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

MEIR Table V-8-1 (b-f)

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Discussion:

a-b) ***No Impact.*** The project site is not identified on Figure V-8-1 of the Master EIR, which depicts the City of Modesto Landmark Preservation Sites. Further, there are no structures on-site over 50 years old that would qualify as an historical structure.

c) ***Less Than Significant.*** The archeological study areas, as depicted on the 1995 Master EIR diagrams (Figure V-8-2 in 2003 MIER), indicate areas of the Modesto Planning Area where there is the highest potential for impacts on cultural resources. Four sites with archeological resources have been identified Urban Area General Plan Area and are recorded with the Central California Information Center (CCIC), in Turlock, California. These areas are located near the Stanislaus and Tuolumne Rivers, Dry Creek and terraces above waterways. The project site is outside of the resource study area and two miles from the nearest known archeological resource, which is adjacent to the Stanislaus River. No archaeological, paleontological, or human remains have previously been identified on-site.

Development of the site with an anticipated floor area ratio (FAR) of 0.30 will not result in excavation and earth moving activities at significantly greater depths than existing foundations, roads and trenches in the immediate vicinity. The subject property is currently in production as farmland. The land has previously been graded flat and is regularly excavated to allow for seasonal planting. Other projects in the immediate

vicinity include, the Bank of Stockton, Church of Jesus Christ of Latter-day Saints, the widening of Pelandale Avenue and Kaiser Hospital, all of which required excavation equal to or greater than what will be required for the subject project.

With the incorporation of the MEIR Mitigation Measures from Table V-8-1 (b-f), any impacts to resources discovered during construction activities would be mitigated to a less than significant level.

New Mitigation Measures:

No new mitigation measures are required.

VI. GEOLOGY AND SOILS/LANDSLIDES AND SEISMIC ACTIVITY

Section V-17.B of the MEIR provides analysis of Potential for Landslides and Seismic Activity impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	[ ]	[ ]	[ ]	[X]
ii) Strong seismic ground shaking?	[ ]	[ ]	[ ]	[X]
iii) Seismic-related ground failure, including liquefaction?	[ ]	[ ]	[ ]	[X]
iv) Landslides?	[ ]	[ ]	[ ]	[X]
b) Be located on expansive soil?	[ ]	[ ]	[ ]	[X]
c) Result in substantial loss of topsoil resources?	[ ]	[ ]	[X]	[ ]
d)) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
not available for the disposal of wastewater?				
e) Result in the loss of availability of known mineral resources that would be of value to the region and the state?	[ ]	[ ]	[ ]	[X]
f) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

Development on this site is consistent with the Urban Area General Plan with respect to geological concerns. Soils in the vicinity of Modesto are not known to be unstable or expansive. Because the site is virtually flat, there is no reasonable expectation of landslide. Further, a soils report will be required prior to development in order that improvements may be properly engineered.

(a) ***No Impact.*** The nearest fault is located approximately 15 miles to the southwest of the Modesto General Plan Area, per Figure V-17-1 of the MEIR identifying Faults Located within Stanislaus County.

(b) ***No Impact.*** The soils in the area are not considered to have a great potential for expansion due to their low clay content and are not classified as expansive, as defined in Table 18-1B of the Uniform Building Code.

(c) ***Less Than Significant.*** No soil erosion or loss of topsoil is expected to occur as a result of the proposed project. However, the City requires all new development to obtain a Stormwater Pollution Prevention Permit (SWPPP), which includes measures to minimize soil erosion.

(d) ***No Impact.*** Septic tanks are not currently utilized on-site and no septic tanks are proposed. The project will be hooking into the public sewer system as required by the City of Modesto.

(e) ***No Impact.*** There are no known mineral resources of significance to the region or state located on the property.

(f) ***No Impact.*** There are no known mineral resources recovery sites located on the property. The property is currently used as farmland and is designated for business park uses in the General Plan.

New Mitigation Measures:

No new mitigation measures are required.

VII. HAZARDS AND HAZARDOUS MATERIALS

Section V-16.B of the MEIR and IV-I of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Hazards and Hazardous Materials impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
VII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	[ ]	[ ]	[X]	[ ]
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	[ ]	[ ]	[X]	[ ]
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	[ ]	[ ]	[X]	[ ]
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	[ ]	[ ]	[ ]	[X]
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?	[ ]	[ ]	[ ]	[X]
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?	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

MEIR HM-5

In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan shall be prepared by the project applicant (*General Plan Policy V-M.2[a]*).

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low enough to allow any use at the site. In practice, the technical feasibility of location a specific use on a specific site may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record (*General Plan Policy V-M.2[a]*).

MEIR HM-6

For each specific project that would generate hazardous waste the City shall require, as a condition of building permit and/or business license approval, that the project sponsor prepare a hazardous material transportation program. The transportation program shall identify the location of the new facilities of use and designate either (1) specific routes to be used for transport of hazardous materials and wastes to and from the facility, or (2) specific routes to be

avoided during transport of hazardous materials and wastes to and from the facility. Routes would be selected to minimize proximity to sensitive receptors to the greatest practical degree. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous material transportation program or, working with the applicant, modify it to the satisfaction of both parties (*General Plan Policy V-M.2[d]*).

MEIR HM-9

Prior to the issuance of all building permits, the City shall identify the site in relation to all CERCLIS sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities shall conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program would be developed and implemented (*General Plan Policy V-M.2[e]*).

Discussion:

The project is in conformance with the General Plan. No new impacts related to Hazards or Hazardous Materials are anticipated, as compared to those impacts anticipated in the General Plan Master EIR. The project is not in the immediate vicinity of an airport or private airstrip or wildlands area. The applicant has certified that the project site does not appear on the State's list of identified hazardous waste sites.

(a-c) ***Less Than Significant.*** No specific uses have been identified on-site as no development plans have been submitted. However, the types of uses permitted within the project area include business park uses and the routine transport, use or disposal of hazardous materials is not typical for these uses. The closest school site is the Mary Lou Dietrich Elementary School, located just less than ¼ mile to the southeast of the project site, south of Pelandale Avenue. The impact to the public or school through an upset or accidental release of hazardous materials in the environment is less than significant as hazardous materials are typically not utilized within the business park land use. However, should future uses be proposed that would involve the transfer of hazardous materials, a hazardous materials transportation program shall be required as a condition of building permit or business license approval, in accordance with MEIR HM-6.

(d) ***No Impact.*** The project site is not located within any known Hazardous Materials Zones as described on the CA Department of Toxic Substance Controls' Hazardous Waste and Substances Site List (Cortese List).

(e) ***No Impact.*** The project site is not located within an airport land use plan. The nearest public use airport is located approximately 6.5 miles southeast of the site.

(f) ***No Impact.*** The project site is not located within the vicinity of a private airstrip. The nearest private airstrip is located approximately 6.5 miles southeast of the site.

(g) ***Less Than Significant.*** Emergency access routes would be accessible and available for all vehicles and include direct access to the project area via "B" Road from Bangs Avenue and "A" Road from American Avenue.

(h) ***No Impact.*** The project site is not located within the vicinity of wildlands. The site is in an urban area, substantially surrounded by development.

New Mitigation Measures:

No new mitigation measures are required.

VIII. HYDROLOGY/FLOODING AND WATER QUALITY

Sections V-9.B and V-10.B of the MEIR and IV-G of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Hydrology/Flooding and Water Quality impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
VIII. HYDROLOGY AND WATER QUALITY – Would the project:				
a) Violate any water quality standards or waste discharge requirements?	[ ]	[ ]	[X]	[ ]
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 which would not support existing land uses or planned uses for which permits have been granted)?	[ ]	[ ]	[X]	[ ]
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	[ ]	[ ]	[X]	[ ]
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Otherwise substantially degrade water quality?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[ ]	[X]
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	[ ]	[ ]	[ ]	[X]
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?	[ ]	[ ]	[X]	[ ]
j) Inundation by seiche, tsunami, or mudflow?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

MEIR FWQ-11

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and the Environmental Protection Agency for underground injection (*General Plan Policy V.E.3.C*)

MEIR FWQ-13

Construction activities shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allows for new development except at infill areas smaller than three acres where no other feasible alternative is available (UAGP PolicyV.E.3[h])

MEIR SD-4

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (*General Plan Policy V-E.2[c]*)

MEIR SD-5

Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and

constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General *Plan Policy V-E.3[d]*)

MEIR SD-11

The City shall ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures (UGAP Policy V-E.3[j])

MEIR SD-14

The City of Modesto shall require positive storm drainage facilities in the Planned Urbanizing Area. Recharge shall be typically accomplished at recharge/detention basins, designed to be in compliance with applicable federal and state water quality regulations for both groundwater and surface water (*General Plan Policy V-E.4[b]*)

Discussion:

The project is in conformance with the General Plan. No new impacts related to Hydrology/Flooding and Water Quality are anticipated. The site will be served with sanitary sewer and storm drainage in accordance with City of Modesto requirements. The site is not within the 100-year flood plain and outside the Flood Potential Study Area established in the Urban Area General Plan Master EIR (Figure V-10-1a in the MEIR). Further, the Kiernan Business Park South Facilities Master Plan (FMP) identifies those improvements needed to accommodate the project area, which identifies the need for a 7.4-acre feet storm detention basin and additional storm drain lines. In addition to the FMP, the project was required to complete a Water Supply Assessment (WSA) in accordance with SB 610, which was adopted by the City Council on May 1, 2007. The WSA was based on the City of Modesto/Modesto Irrigation District Joint Urban Water Management Plan, approved by the City Council on April 24, 2007. The City of Modesto also recently updated their Urban Water Master Plan.

(a) ***Less Than Significant.*** The City requires all new development to obtain a Stormwater Pollution Prevention Permit (SWPPP) and be served by a positive storm drainage system. In addition, the facility would be constructed and operated in accordance with the FMP prepared for the project site and in accordance with the City's Guidance Manual for New Development, Stormwater Quality Control Measures and in accordance with Best Management Practices (BMPs).

(b) ***Less Than Significant.*** The proposed project is consistent with the land uses as identified in the Master EIR and therefore, the water supply requirements would be the same as analyzed in the Master EIR. In accordance with SB 610, a Water Supply Assessment was completed for the project area. The near-term capacity study concluded that there is sufficient water available to serve the proposed project with existing entitlements through the year 2025 utilizing only existing entitlements and water contracts. The WSA completed for the project area identifies an adequate water supply for the project area.

(c-f) ***Less Than Significant.*** Future development of the site would alter the existing drainage patterns and increase surface runoff. However, storm drainage facilities would be constructed in accordance with the Storm Drainage Master Plan and FMP prepared

for the project site, which identifies roadside basins and pumping to the MID canal. In addition, the City requires new development to be served by a positive storm drainage system and that the development obtain a SWPPP, which requires soil erosion control measures be implemented during all construction activities. In addition, the City requires that Best Management Practices (BMPs) be employed in the construction of all facilities.

(g,h) ***No Impact.*** The project does not propose any housing on-site and the project site is outside the Flood Potential Area, Figure V-10-1 of the MEIR.

(i) ***Less Than Significant.*** The project site is located approximately 34 miles west and downstream of the Don Pedro Dam and about 31 miles southwest and downstream from the New Melones Dam. Despite being downstream, the project site would not be expected to be inundated with flood waters in the unforeseeable event of a dam failure as floods would have been dispersed throughout the central San Joaquin Valley.

(j) ***Less Than Significant.*** The project site is not located near a body of water substantial enough in size to result in seiche, tsunami or mudflow.

New Mitigation Measures:

No new mitigation measures required.

IX. LAND USE AND PLANNING

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.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
IX. LAND USE AND PLANNING – Would the project:				
a) Physically divide an established community?	[ ]	[ ]	[ ]	[X]
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	[ ]	[ ]	[ ]	[X]
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

The project site is designated as Business Park in the Urban Area General Plan and the Kiernan Business Park Specific Plan and the project is consistent with this land use designation.

(a) ***No Impact.*** The project site is vacant. Development of the project site with Business Park uses would not physically divide an established community.

(b) ***No Impact.*** The project site is designated by the Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan for Business Park land uses. The proposed project is consistent with this designation and the development is required to meet all plans, policies, and property development standards for the site.

(c) ***No Impact.*** The City of Modesto does not have an adopted Habitat Conservation Plan or Natural Community Conservation Plan.

New Mitigation Measures:

No new mitigation measures are required.

X. MINERAL RESOURCES

Section V-17.B of the MEIR touches on Mineral Resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	[ ]	[ ]	[ ]	[X]
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?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

The project site is planned for urban development in the 2008 General Plan and the associated MEIR. No change to this plan is proposed, and no new information affecting this subject has become available.

(a-b) ***No Impact.*** The Modesto Urban Area is not reported to have abundant mineral resources and there are no known special minerals in Modesto. Development of the project would not result in the loss of availability of any known mineral resource that would be of value to the region or of any locally important mineral resource.

New Mitigation Measures:

No new mitigation measures are required.

XI. NOISE

Section V-3.B of the MEIR and IV-C of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Noise impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
XI. NOISE – Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	[ ]	[ ]	[X]	[ ]
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	[ ]	[ ]	[X]	[ ]
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	[ ]	[ ]	[X]	[ ]
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	[ ]	[ ]	[X]	[ ]
e) For a project located within an airport land use plan or, where such a plan has not been	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

MEIR N-2

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

1. A hammer, or any other device or implement used to pound or strike an object.

2. An impact wrench, or other tool or equipment powered by compressed air.

3. A hand-powered saw.

4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested (*Modesto Municipal Code Section 4-9.101*).

MEIR N-3

The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9) and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g. where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following;

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields
2. Equipment that is quieter than standard equipment should be utilized
3. Haul routes that affect the fewest number of people should be selected (*General Plan Policy VII-G.3[a]*).

Discussion:

A portion of the project site lies within the 65 L_{dn} noise contour, as shown on Figure V-3-2 in the Urban Area General Plan Master EIR. However, the project site is planned for Business Park land uses, which are an acceptable land use within areas designated for up to 70 dB. Any future construction activities will be subject to the noise ordinance, but will constitute a temporarily significant noise impact; construction activities may be shut down by the Police Department if the contractors violate the ordinance.

(a-d) ***Less Than Significant Impact.*** The project site is planned for Business Park land uses within the Modesto Urban Area General Plan and the Kiernan Business Park Specific Plan. A portion of the project site lies within the 65 L_{dn} noise contour, as shown on Figure V-3-2 in the Urban Area General Plan Master EIR. However, the project site is planned for Business Park land uses and the General Plan designates areas within 70 dB as suitable for office uses, business commercial and professional uses. In addition, the types of uses proposed do not use equipment that would result in groundborne vibrations in their long-term operations. However, short-term impacts to noise would result from construction activities on-site.

Short-Term Noise Impacts

Depending on the activities being performed, as well as the duration and hours during which construction activity would occur, noise associated with construction of the proposed project could result in a temporary significant increase in the ambient noise levels on-site, including an increase in groundborne vibrations. Residential development does exist to the south and west of the project, across Pelandale Avenue and Dale Road, respectively. However, due to their separation from the project site by major roadways, impacts on sensitive receptors would be minimal. Further, the MEIR Mitigation N-5 limits the loud and raucous operation of equipment or any construction, demolition, excavation, erection, alteration, or repair activity to the hours between 7:00 AM and 9:00 PM on weekdays or between 9:00 AM and 9:00 PM on Saturday, Sunday

and State or Federal holidays. All project construction activities will be restricted to these daytime hours.

(e) ***No Impact.*** The project site is not located within an airport land use plan. The nearest public use airport is located approximately 6.5 miles southeast of the site.

(f) ***No Impact.*** The project site is not located within the vicinity of a private airstrip. The nearest private airstrip is located approximately 6.5 miles southeast of the site.

New Mitigation Measures:

No new mitigation measures are required.

XII. POPULATION AND HOUSING

The General Plan MEIR was certified for the development of the Modesto Urban Area General Plan. No significant Population and Housing effects were identified.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
XII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	[ ]	[ ]	[X]	[ ]
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	[ ]	[ ]	[ ]	[X]
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	[ ]	[ ]	[ ]	[X]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

(a) ***Less Than Significant.*** The project site is planned for Business Park development under the 2003 Modesto Urban Area General Plan and Kiernan Business Park Specific Plan and the proposed project is consistent with this designation. While additional business park uses may indirectly induce population growth in the area through the

creation of jobs and/or services, development of Business Park uses were evaluated previously under the MEIR and the Kiernan Business Park-Carver Bangs Specific Plans FEIR.

(b-c) ***No Impact.*** The project site is partially developed with commercial uses, used for agricultural purposes or is vacant. No housing units or population would be displaced by development of the project.

New Mitigation Measures:

No new mitigation measures are required.

XIII.PUBLIC SERVICES

Sections V-12, -13, and -14 of the MEIR provide analysis of impacts on Schools, Police Services, and Fire Services of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	[ ]	[ ]	[X]	[ ]
Police protection?	[ ]	[ ]	[X]	[ ]
Schools?	[ ]	[ ]	[X]	[ ]
Parks?	[ ]	[ ]	[X]	[ ]
Other public facilities?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

MEIR FS-2

The City of Modesto should ensure that adequate ingress and egress to all structures for fire

fighting and rescue purposes independent of privately owned and maintained driveways (*General Plan Policy V-K.2[b]*).

MEIR FS-14

Fire apparatus access roads to and around structures shall comply with the minimum requirements in Chapter 5 of the California Fire Code. *(UGAP Policy VI-D.1[b])*

MEIR FS-16

All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code *(UAGP VI-E.1[d])*

MEIR S-10

The City shall continue to require that the developer pay, prior to issuance of any building permits, the maximum residential, commercial and industrial development school fees in effect at the time building takes place. This requirement is in accordance with the provisions of Assembly Bill 2926 (*General Plan Policy V-H.2[e]*)

Discussion:

(a) ***Less Than Significant.*** The nearest fire station is located at the Pelandale/Carver intersection, one (1) mile to the east of the project site. The Modesto Fire Department has determined that the proposed project will not create a need for new or modified policing facilities, as compared to the analysis presented in the Urban Area General Plan Master EIR.

(b) ***Less Than Significant.*** The Modesto Police Department has determined that the proposed project will not create a need for new or modified policing facilities, as compared to the analysis presented in the Urban Area General Plan Master EIR.

(c) ***Less Than Significant.*** MEIR Mitigation Measure S-10 mandates that the project proponent pay the maximum fees in effect at the time construction occurs. Government Code §65995(h) provides that the payment of fees imposed in accordance with the applicable Education Code requirements constitutes full and complete mitigation of the impacts of a proposed project.

(d) ***Less Than Significant.*** See the discussion below under **Section XIV. Recreation/ Parks Open Space.**

(e) ***Less Than Significant.*** The project is consistent with the land uses designated in the 2003 Urban Area General plan and the MEIR. No additional impacts are expected beyond those anticipated in the MEIR. Further, the project is developing an FMP to determine the needed infrastructure to serve the property and will be required to develop those improvements identified.

New Mitigation Measures:

No new mitigation measures are required.

XIV. RECREATION/PARKS AND OPEN SPACE

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.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	[ ]	[ ]	[X]	[ ]
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

(a) ***Less Than Significant.*** The project does not propose the addition of housing and therefore, no increase in population is being generated by the proposed project that may cause substantial physical deterioration of the recreational facilities.

(b) ***Less Than Significant.*** The project does not propose the addition of housing and therefore, no increase in population is being generated by the proposed project. There are no requirements for commercial development to provide recreational facilities and none are being constructed.

New Mitigation Measures:

No new mitigation measures are required.

XV. TRAFFIC AND CIRCULATION

Section V-1.B of the MEIR and section IV-A of the Kiernan Business Park and Carver-Bangs Specific Plans Focused EIR provide analysis of Traffic and Circulation impacts of development of the General Plan and the Kiernan Business Park Specific Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR and Kiernan Business Park and Carver-Bangs FEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
XV. TRAFFIC AND CIRCULATION – 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)?	[ ]	[X]	[ ]	[ ]
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[ ]	[X]	[ ]	[ ]
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?	[ ]	[ ]	[ ]	[X]
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
equipment)?				
e) Result in inadequate emergency access?	[ ]	[X]	[ ]	[ ]
f) Result in inadequate parking capacity?	[ ]	[ ]	[X]	[ ]
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to Project:

MEIR TC-45
Individual development projects that could affect conditions on traffic facilities predicted by the General Plan Traffic Analysis to operate at LOS "E" (as shown in [Appendix A] of the Master EIR) shall not, without further study, cause conditions on those facilities to exceed LOS "E" at any time prior to 2025. If implementation of this Level of Service is impractical or infeasible, subsequent environmental review, including a Comprehensive Traffic Study, will be required.

The subsequent environmental review may take the form of:

(1) A mitigated negative declaration, if feasible mitigation measures or alternatives will be incorporated to avoid the worsening of the LOS standards presented in [Appendix A] of the Master EIR. (Section 21157.5(a)of CEQA)

(2) An EIR, if mitigation measures cannot avoid the worsening of the LOS Standards presented in [Appendix A] of the Master EIR. Section (Section 21157.59B0 of CEQA)

The Comprehensive Traffic Study shall include appropriate mitigation measures to update the General Plan Traffic Analysis for all subsequent Specific Plans, and for development within the affected Baseline Developed Area and Redevelopment Area, and shall conform to the *Criteria for a Traffic Impact Study*. (UAGP Policy V-B.7[d])

Discussion:

The scale and nature of the proposed project could result in traffic impacts of LOS "E" or worse and therefore, a *Transportation Impact Analysis for the Mana-Wagner Development Agreement* was completed by the City of Modesto Traffic Engineering and Operation Division. The traffic analysis contained in this initial study is based upon information presented in the Transportation Impact Analysis (TIA) and the TIA is incorporated herein by reference. The TIA may be viewed at the City of Modesto Planning Division offices, located at 1010 Tenth Street, 3rd Floor Modesto, CA 95354.

The TIA is intended to evaluate the potential project-specific impacts that development of Phase I, Phase II and Phase III would have on the surrounding roadway network. To evaluate potential project-specific impacts of each of the three phases, the TIA studied the following seven scenarios: Phase I (2012) without street improvements, Phase I (2012) with street improvements, Phase II (2016) and Phase I without street improvements, Phase II (2016) and

Phase I with street improvements, Phase III (2019), Phase II and Phase I without street improvements, Phase III (2019) Phase II and Phase I with street improvements and a cumulative conditions assessment. Project daily traffic volumes, both with and without the proposed project, were compared to daily roadway segment capacities. Volume-to-capacity ratios were calculated for "without project" and "with project" conditions to determine if the proposed project would significantly impact daily roadway segment operations in the vicinity of the project site. Trip generation estimates for the proposed project were developed by using the trip generation rates contained in the Institute of Transportation Engineers (ITE), *Trip Generation*, (7th Edition).

Land Use	Size	Weekday						
		Daily	PM Peak Hour			Afternoon Peak Hour		
			In	Out	Total	In	Out	Total
Phase I: Business Park	91,000 square feet	1,726	109	21	130	32	106	138
Phase II: Business Park	89,000 square feet	1,704	108	20	128	30	105	136
Phase III Business Park	97,000 square feet	1,790	117	22	139	34	113	147
TOTAL	277,000 square feet	3,725	326	62	388	89	297	385

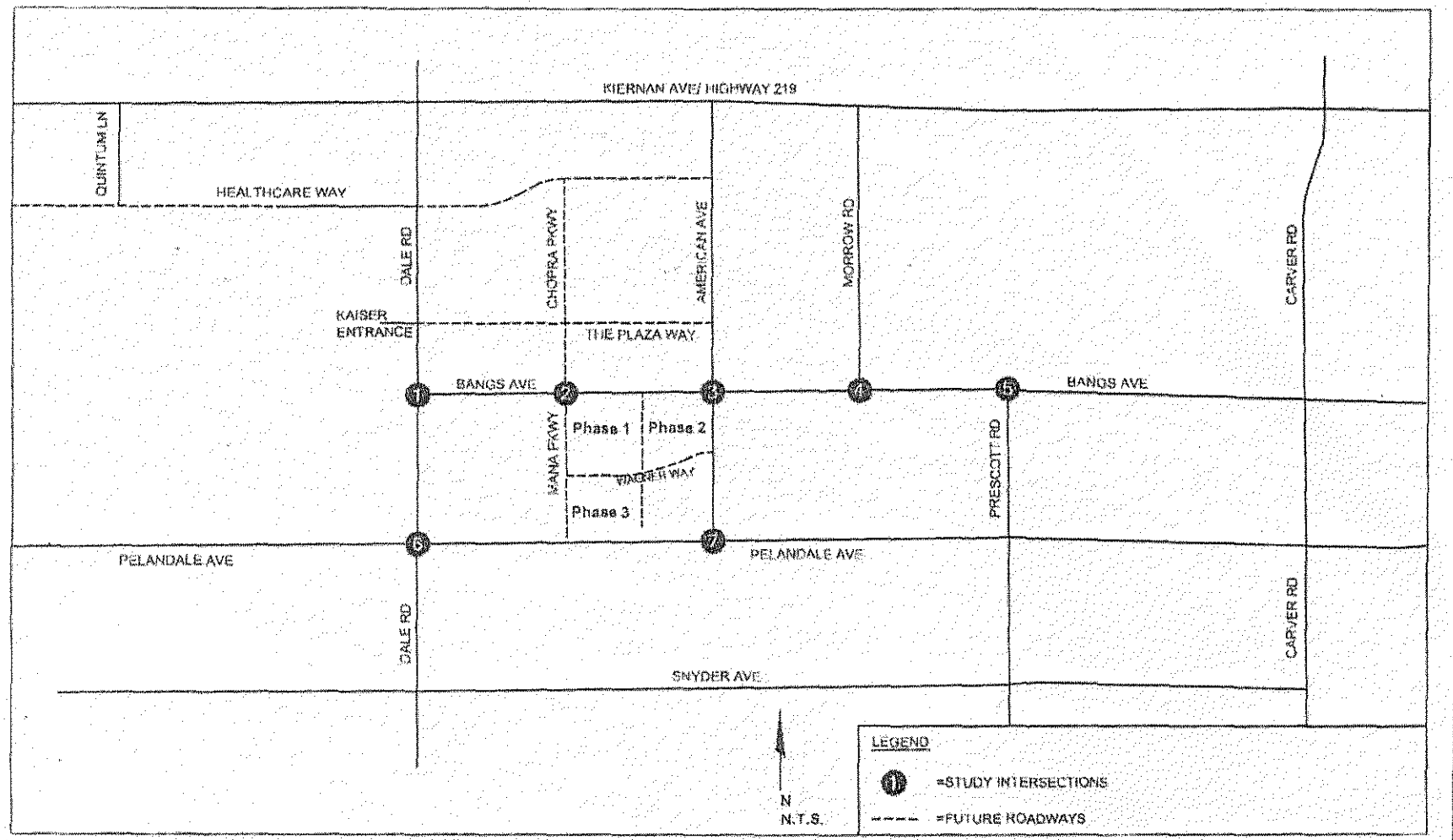
STUDY LOCATIONS

Intersection operations were evaluated during the weekday morning (AM) and evening (PM) peak periods. Ten intersections in the vicinity of the project site were analyzed as follows. See **Figure XV-1 – Study Locations** for all study locations.

(1) Bangs Avenue/Dale Road
(2) Bangs Avenue/Chopra Parkway
(3) Bangs Avenue/American Avenue
(4) Bangs Avenue/Morrow Road
(5) Bangs Avenue/Prescott Road
(6) Pelandale Avenue/Dale Road
(7) Pelandale Avenue/American Avenue

In addition to the 10 intersection locations identified above, a total of 2 roadway segments were analyzed including the following segments:

1) Dale Road, Bangs Avenue to Pelandale Avenue
2) Bangs Avenue, Dale Road to American Avenue
3) Bangs Avenue, American Avenue to Prescott Road



CITY OF MODESTO
TRAFFIC ENGINEERING AND OPERATIONS

Project Site Vicinity Map

FIGURE 1

EXISTING CONDITIONS

Regional access to the project site is provided via State Route (SR) 99 at Pelandale Avenue, while local access to the site is provided via Bangs Avenue and American Avenues. Transit service in Modesto is provided by Modesto Area Express (MAX) and Stanislaus Regional Transit (StaRT). MAX currently provides two (2) routes that serve the Pelandale Avenue/Dale Road intersection: Routes 28 and 31. Each of these routes connects to downtown Modesto and to Vintage Faire Mall, where transfer facilities are provided. In addition, there is a Park-and-Ride lot located in the northwest corner of the Vintage Faire Mall site, which provides parking facilities and shuttle services to the Lathrop/Manteca ACE train station. StaRT provides regional transit throughout Stanislaus County and currently operates service to the project area on Saturdays.

The traffic counts used were taken in 2007 for the Kiernan Business Park South Traffic Study performed by Fehr and Peers. To determine existing Levels of Service (LOS), weekday morning (7:00 AM to 9:00 AM) peak period and weekday evening (4:00 PM to 6:00 PM) peak period intersection turning movement counts were conducted at the study intersections on clear days with area schools in normal session. Field observations and the level of service results indicate that most intersections operate at an acceptable level during the weekday AM and PM peak hours.

As a result of new information, the City's Traffic Engineer reviewed the 2007 Fehr and Peers Transportation Impact Analysis (TIA) for the Kiernan Business Park South area and the 2009 Community and Economic Development Traffic Impact Analysis completed by the Community and Economic Development Department for the Mana-Wagner Development Agreement. Due to slower than anticipated background growth and the slower than anticipated build out of the Kaiser Medical Center, impacts identified in phase one of the TIA completed for the Mana-Wagner Development Agreement will occur in phase two and those impacts identified in phase two will not occur until phase three. [1]

SIGNIFICANT IMPACT CRITERIA

The following criteria were utilized to determine whether an impact would be considered significant and require mitigation to reduce the impact to a less than significant level:

- Deterioration of a signalized intersection from LOS D (or better) to LOS E or LOS F;
- Deterioration of a controlled movement at an unsignalized intersection from LOS D or better to LOS E or F;
- Deterioration of a roadway segment from LOS D or better to LOS E or LOS F.

(a-b) ***Less Than Significant with Mitigation Incorporated.*** The addition of 3,725 daily weekday trips generated by Phase I, Phase II and Phase III collectively would result in potentially significant impacts under existing conditions. However, with the incorporation of the mitigation measures, as identified in the following discussions, the impacts would be reduced to a less than significant level.

[1] Barnes, Jeffrey L. City Traffic Engineer, Memo to David Wage, Planning Division, Modesto, CA February 11, 2010

Further, all development with the Kiernan Business Park South project area is responsible for paying the City's Capital Facilities Fee (CFF). The fees collected go toward the improvement of city-wide facilities identified in the City's CFF Program. Many of the mitigation measures identified below are also identified in the CFF Program and monies will be collected from the applicant for their fair share contribution to those improvements.

In addition to the CFF contribution, a Community Facilities District (CFD) is being formed for the Kiernan Business Park South project area. Those improvements, as identified below, will be developed utilizing funds collected through the CFD. The subject property is required to form and annex to a CFD for the Kiernan South area, which is a condition of approval on a previously approved parcel map for the subject property. All development within the Kiernan Business Park South project area will be required to annex into the CFD.

The intersection of Pelandale Avenue and American Avenue was studied, but did not show a significant impact with the addition of the proposed project. Identified impacts and associated mitigation measures are summarized below:

PHASE II

Impact No. 1: Bangs Avenue/Prescott Road (Intersection)

Addition of Phase II traffic would result in deficient operations during the PM peak hour at the Bangs Avenue/Prescott Road intersection, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified construction of a 250' eastbound right-turn only lane. The City has a project in the Capital Improvement Program (CIP) to install a signal at this intersection; however, the needed eastbound right-turn lane at the Bangs Avenue/Prescott Road intersection is not currently in the CIP. The City anticipates the right-turn lane will be added to the CIP in the near future.

MM XV.1: Concurrent with Phase II, a 250' eastbound right-turn only lane along Bangs Avenue at Prescott Road shall be installed. Should the City be unable to install the right-turn lane, the applicant shall be responsible for installation of the improvement.

Timing/Implementation: The right-turn only lane shall be installed and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

PHASE III

Impact No. 2: Westbound and Eastbound Bangs Avenue between Dale Road and American Avenue (Segment)

The addition of traffic from Phase III would result in deficiencies along Bangs Avenue between Dale Road and American Avenue, which are considered significant. To mitigate this impact to a less than significant level, the TIA identified widening Bangs Avenue from two to four travel lanes from Dale Road to American Avenue. Providing a four-lane cross section would allow for turning movements to/from parcels while maintaining acceptable operations for through traffic. This improvement has been included in the

Facilities Master Plans for the Kiernan East and Kiernan South Specific Plan Areas with financing through a taxing district or Community Facilities District (CFD).

MM XV.2: Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector from Dale Road to Prescott Road.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

Impact No. 3: Northbound Dale Road from Pelandale Avenue to Bangs Avenue (Segment)

The addition of Phase III traffic would result in deficiencies along northbound Dale Road from Pelandale Avenue to Bangs Avenue, which are considered significant. To mitigate this impact to a less than significant level, the TIA identified the need for an additional (third) northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue. The costs of completing the widening, including the acquisition of right-of-way, have been programmed into the Kiernan South and East CFD.

MM XV.3: Concurrent with Phase III, Dale Road shall be widened to include an third northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

Impact No. 4: Bangs Avenue/American Avenue (Intersection)

With the addition of Phase III, the Bangs Avenue/American Avenue intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified two alternatives. Both alternatives require the provision of four travel lanes on Bangs Avenue. The first alternative (1) is to construct a double-lane roundabout. The second alternative (2) is to install traffic signals. Either mitigation measure, alternative 1 or 2, would reduce the impact to a less than significant level.

The costs of completing improvements to the Bangs Avenue/American Avenue intersection have been programmed into the Kiernan South and East CFD.

MM XV.4: Concurrent with Phase III, a 2-lane roundabout at Bangs Avenue/American Avenue shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase III.

Monitoring: Community and Economic Development- Planning Division

Impact No. 5: Bangs Avenue/Chopra Parkway/Mana Parkway (Intersection)

With the addition of Phase III, the Bangs Avenue/Chopra Parkway/Mana Parkway intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified two alternatives. Both alternatives require the provision of four travel lanes on Bangs Avenue. The first alternative (1) is to construct a double-lane roundabout. The second alternative (2) is to install traffic signals. Either mitigation measure, alternative 1 or 2, would reduce the impact to a less than significant level.

The costs of completing improvements to the Bangs Avenue/Chopra Parkway/Mana Parkway intersection have been programmed into the Kiernan South and East CFD.

MM XV.5: Concurrent with Phase III, a 2-lane roundabout at Bangs Avenue/Chopra Parkway/Mana Parkway shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase III.

Monitoring: Community and Economic Development- Planning Division

PHASE III

Impact No. 6: Westbound and Eastbound Bangs Avenue between American and Morrow Road (Segment)

The addition of Phase III traffic would result in deficiencies along Bangs Avenue between American Avenue and Morrow Road, which is considered significant. To mitigate this impact to a less than significant level, the TIA identified widening Bangs Avenue from two to four travel lanes from American Avenue to Morrow Road. Providing a Major Collector cross section would allow for turning movements to/from parcels while maintaining acceptable operations for through traffic. The two additional lanes mitigate the impacts of Phase III from an unacceptable Level of Service F to an acceptable Level of service D in the Weekday PM Peak Hour.

MM XV.6: Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector, from American Avenue to Morrow Road.

Timing/Implementation: Widening shall be implemented concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

Impact No. 7: Pelandale Avenue/Dale Road (Intersection)

With the addition of Phase III, the Pelandale Avenue/Dale Road intersection is projected to operate at unacceptable levels (LOS F) at the PM peak hour, which is considered significant. Two improvements are needed to bring the intersection from a Level of

Service F to D: the construction of a right-turn lane on the eastbound approach of Pelandale Avenue, and the addition of a third through lane on the northbound approach of Dale Road to the intersection.

Pelandale Avenue, including the required right-turn lane on the eastbound approach, is included in the City's Capital Facilities Fee (CFF) and the development will be required to pay their fair share contribution toward future roadway improvements identified by CFF, so no additional mitigation is required. The third northbound through lane on the Dale Road approach can be accommodated within the existing right-of-way and is limited to re-striping the roadway. The City of Modesto Traffic Division will fund the Dale Road improvement through their operations funds.

MM XV.7: Concurrent with Phase III, a third through lane on the northbound approach at Pelandale Avenue/ Dale Road shall be installed.

Timing/Implementation: The additional lane shall be installed and operational concurrent with Phase III.

Monitoring: Community and Economic Development – Traffic Division

CUMULATIVE IMPACTS

The relative impacts of the proposed project were also assessed within the context of future traffic conditions occurring in the year 2025. The future traffic volumes are based on long-term segment traffic forecasts derived from the General Plan Master EIR. Two segments analyzed in the traffic study include:

1) Dale Road from Pelandale Avenue to Bangs Avenue: At build-out of the General Plan (2025) this roadway segment of Dale is projected to operate LOS C. The project is projected to reduce the LOS D at the PM peak; however, this impact is within the accepted (LOS D) significance threshold established in the MIER;

2) Bangs Avenue from Dale Road to Prescott Road: At build-out of the General Plan (2025) this roadway segment of Bangs is project to operate at LOS F. With the addition of subject project, this segment of Bangs is anticipated to operate within LOS D at the PM peak. The project would not have a significant cumulative impact.

(c) ***No Impact.*** The site is not located within an airport land use area and therefore would not have an impact on air traffic patterns or result in an increase in traffic levels or a change in location that results in substantial safety risks. There would be no impact.

(d) ***Less Than Significant.*** The proposed development under Phase I and Phase II would result in the construction of additional access intersections at Bangs Avenue/Mana Parkway and American Avenue/Wagner Way. A number of internal site access points would also be developed off Wagner Way and Mana Parkway. The *Transportation Impact Analysis for Development Agreement* did analyze the turning movements at these intersections and the project impact to these intersections would be less than significant.

(e) ***Less Than Significant with Mitigation Incorporated.*** The overall circulation system in the project vicinity would not change. Existing emergency access routes would be accessible and available for all emergency vehicles providing direct access to the project site via Bangs Road and American Avenue. However, short-term impacts may occur as a result of construction timing, which could result in a significant though temporary impact to adequate site access. With the incorporation of the following mitigation measure, those impacts would be reduced to a less than significant level.

MM XV.8: The applicant/developer shall develop a construction management plan for review and approval by the City Traffic Engineer or designee.

Timing/Implementation: Prior to approvals of improvement plans.

Monitoring: Community and Economic Development – Traffic Division

(f) ***Less Than Significant.*** All proposed development with the project area will be required to meet the City of Modesto parking standards designated for the proposed use. This requirement will be applied at the time of development plan review.

(g) ***Less Than Significant.*** The project site is currently served by the Modesto Area Express (MAX) bus system Routes 28 and 31, which stop at Pelandale Avenue and Dale Road. Development of Phase I, Phase II, Phase III would increase transit demand in the area. Additional turnouts for Route 31 are being added along Pelandale Avenue adjacent to the project site to meet the additional demand.

New Mitigation Measures:

Although the proposed project could have a significant effect on Traffic and Circulation (items a, b, d and e), there will not be a significant effect in this case because mitigation measures **MM VX.1**, **MM VX.2**, **MM VX.3**, **MM VX.4**, **MM VX.5**, **MM VX.6**, **MM VX.7**, **MM VX.8**, as summarized above, have been agreed to by the applicant and will be added to the project. Therefore, with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates the above-noted mitigation measures into the project, the project would have a less than significant impact on the environment.

XVI. UTILITIES AND SERVICE SYSTEMS

Sections V-5, -6, -9, and -15 of the MEIR provide analysis of impacts on Water Supplies, Sanitary Sewer Services, Storm Drainage, and Solid Waste of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
XVI. UTILITIES AND SERVICE SYSTEMS – Would the project:				
a) Exceed wastewater treatment requirements	[ ]	[ ]	[X]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of the applicable Regional Water Quality Control Board?				
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	[ ]	[ ]	[X]	[ ]
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?	[ ]	[ ]	[X]	[ ]
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	[ ]	[ ]	[X]	[ ]
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	[ ]	[ ]	[X]	[ ]
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	[ ]	[ ]	[X]	[ ]
g) Comply with federal, state, and local statutes and regulations related to solid waste?	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

MEIR WS-7
During review of all proposed development, the City shall require, as a condition of approval, that all developments reduce their potable water demand. The City should refer to Table V-5-1 in the Final MEIR for potential techniques to reduce potable water demand (*General Plan Policy V-C.3[a]*).

MEIR WS-15
All new connections to the public water system shall have meters installed. In addition, on or before January 1, 2025, all existing municipal and industrial service connections shall have water meters installed.

Discussion:

The project is in conformance with the General Plan. No new impacts related to Utilities and Service Systems are anticipated. The site will be served with sanitary sewer, water and storm drainage in accordance with the Draft Wastewater Capacity Study, dated February 24, 2007, and the Kiernan Business Park East and South Storm Drainage Technical Report, revised June 2007, prepared for the Kiernan Business Park South project area. Needed infrastructure improvements were identified and incorporated into the FMP. The site is not within the 100-year flood plain and is outside the Flood Potential Study Area established in the Urban Area General Plan Master EIR (Figure V-10-1a in the MEIR). Further, the Facilities Master Plan (FMP) identifies those improvements needed to accommodate the project area, which includes the needed infrastructure for sanitary sewer, water and storm drain facilities. In addition to the FMP, the project was required to complete a Water Supply Assessment (WSA) in accordance with SB 610, which was adopted by the City Council on May 1, 2007. The WSA was based on the City of Modesto/Modesto Irrigation District Joint Urban Water Management Plan, approved by the City Council on April 24, 2007. The City of Modesto also recently updated their Urban Water Master Plan.

(a,b,e) ***Less Than Significant.*** A Wastewater Capacity Study was completed for Kiernan Business Park South, which identified the needed improvements for development of the project area. The study concluded that the existing 39-inch pipe in American Avenue would be sufficient to serve the proposed development. Further, those improvements identified in the Wastewater Capacity Study have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements and those improvements are consistent with the City of Modesto Wastewater Master Plan.

(c) ***Less Than Significant.*** A Storm Drain Capacity Study was completed for Kiernan Business Park South, which identified the needed improvements for development of the project area including construction of a storm detention basin. In addition to the detention basin, a pump station and additional storm drain lines will be constructed with the rights-of-way for conveyance. All the needed improvements for storm drain have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements. Construction of the storm drain facilities will be required to follow Best Management Practices for storm water runoff. Detailed engineering, including but not limited to soils studies, soil borings, elevations, inlet/outlet structure, low flow channel, and side slopes for a dual-use flood control/recreation facility must be provided and must receive the approval of the City Engineer prior to construction.

(d) ***Less Than Significant.*** In accordance with SB 610, a Water Supply Assessment was completed for the project area. The near-term capacity study concluded that there is sufficient water available to serve the proposed project with existing entitlements through the year 2025 utilizing only existing entitlements and water contracts. Further, the City of Modesto recently adopted the Water Capacity Study, which identified necessary improvements and those improvements have been incorporated into the FMP. All the needed improvements for water service have been incorporated into the FMP and all development within the project area will contribute towards the necessary improvements.

(g) ***Less Than Significant.*** The project will not generate solid waste above that anticipated by the General Plan for the site.

(h) ***Less Than Significant.*** No new effects on federal, state, and local statutes and regulations related to solid waste are anticipated.

New Mitigation Measures:

No new mitigation measures are required.

XVII. Climate Change

Section V-21of the MEIR provide analysis of impacts of development and other activities associated with the City of Modesto Urban Area General Plan (UAGP) would contribute to global climate change. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. Climate Change – Would the project:				
a) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	[ ]	[ ]	[X]	[ ]
b) The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	[ ]	[ ]	[X]	[ ]
c) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	[ ]	[ ]	[X]	[ ]

Existing Mitigation Measures Applicable to the Project:

None Applicable.

Discussion:

(a) ***Less Than Significant.*** The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of

Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Business Park. The proposed development is consistent with the Business Park designation in terms of land-use and intensity. Therefore the proposed Development Agreement to allow business park development is consistent with the 2008 General Plan.

(b) ***Less Than Significant.*** Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO_2 emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO_2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(c) ***Less Than Significant.*** A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

New Mitigation Measures:

No new mitigation measures are required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels,	[ ]	[X]	[ ]	[ ]

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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)?	[ ]	[ ]	[X]	[ ]
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	[ ]	[ ]	[X]	[ ]

Discussion:

(a) ***Less Than Significant with Mitigation Incorporated.*** As set forth in the MEIR and this Initial Study, this project does have the potential to further degrade the quality of the environment. The initial study identifies new project-specific impacts to biological resources and the circulation system, which do have the potential to impact the environment. However, with the mitigation measures identified in Section VI, Biological Resources/Sensitive Wildlife and Plant Habitat (**MM IV.1a**, **MM IV.1b** and **MM IV.1c**) and Section XV, Traffic and Circulation (**MM VX.1**, **MM VX.2**, **MM VX.3**, **MM VX.4**, **MM VX.5**, **MM VX.6**, **MM VX.7**, **MM VX.8**) those new impacts are reduced to a less than significant level.

(b) ***Less Than Significant.*** The project has the potential to cause cumulative impacts to loss of agricultural resources, degradation of air quality, climate change and the circulation system: however, Statements of Overriding Considerations were adopted for those cumulative impacts identified in the MEIR. The proposed project does not contribute any new cumulative impacts beyond those previous identified.

(c) ***Less Than Significant.*** As set forth in this Initial Study, the project does not have the potential to cause substantial adverse effects on human beings, either directly or indirectly, that would necessitate additional mitigation measures not previously identified in the Master EIR.

IXX. DETERMINATION

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

☒ This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the Master EIR. This additional significant effect is potential impacts to Traffic/Circulation and Biological.

☒ Feasible mitigation measures will be incorporated to revise the subsequent project before the Mitigated Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

New Project-Specific Mitigation Measures Identified by the Initial Study/ Mitigated Negative Declaration for Biological Resources:

MM IV.1a: If proposed grading, site preparation, or construction activities are planned to occur during the nesting seasons for local avian species (typically March 1st through August 31st), the project applicant shall retain a qualified biologist approved by the City of Modesto to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 100-feet outside project boundaries, where possible) the construction area no more than 72 hours prior to ground disturbance. If an active nest is located during preconstruction surveys, USFWS and/or DFG (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted, as necessary, to avoid disturbance of the nest until it is abandoned and the consulting regulatory agency deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet around the nest) or alteration of the construction schedule.

Timing/Implementation: Prior to obtaining a grading permit.

Monitoring: City of Modesto Community and Economic Development

MM IV.1b: If construction will occur during the non-breeding season (generally September 1st through February 28th), a policy of avoidance and passive relocation (allowing an animal to move out of harms way without any purposeful interference by humans) for any wildlife found onsite shall be implemented for the duration of the project. The appropriate regulatory agency (USFWS or DFG) shall be contacted regarding any species of wildlife refusing to passively relocate from the project area.

Timing/Implementation: During all construction activities.

Monitoring: City of Modesto Community and Economic Development

MM IV.1c: Avoid all impacts to the MID Lateral No. 6. If spanning this channel cannot be avoided, then coordinate with the MID as soon as possible to determine connectivity of the waterway to surrounding creeks and rivers. If connectivity is established, contact the Army Corps of Engineers and Regional Water Quality Control Board to begin the permit process.

Timing/Implementation: The applicant/developer shall determine connectivity of the waterway to surrounding creeks and rivers prior to obtaining a permit for construction of the proposed bridge crossing at MID Lateral No. 6.

Monitoring: City of Modesto Community and Economic Development Department

New Project-Specific Mitigation Measures Identified by the Initial Study/ Mitigated Negative Declaration for Traffic and Circulation:

MM XV.1: Concurrent with Phase I, A 250' eastbound right-turn only lane along Bangs Avenue at Prescott Road shall be installed. Should the City be unable to install the right-turn lane, the applicant shall be responsible for installation of the improvement.

Timing/Implementation: The right-turn only lane shall be installed and operational concurrent with Phase I.

Monitoring: Community and Economic Development- Planning Division

MM XV.2: Concurrent with Phase II, Bangs Avenue shall be widened to a f our-lane major collector from Dale Road to Prescott Road.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

MM XV.3: Concurrent with Phase II, Dale Road shall be widened to include an third northbound through lane on Dale Road from Pelandale Avenue to Bangs Avenue.

Timing/Implementation: Widening shall be implemented and operational concurrent with Phase II.

Monitoring: Community and Economic Development- Planning Division

MM XV.4: Concurrent with Phase II, a 2-lane roundabout at Bangs Avenue/American Avenue shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase II.

Monitoring: Community and Economic Development- Planning Division

MM XV.5: Concurrent with Phase II, a 2-lane roundabout at Bangs Avenue/Chopra Parkway/Mana Parkway shall be installed. Alternatively a traffic signal shall be installed.

Timing/Implementation: Either the roundabout or the traffic signal shall be installed and operational current with Phase II.

Monitoring: Community and Economic Development- Planning Division

MM XV.6: Concurrent with Phase III, Bangs Avenue shall be widened to a four-lane major collector, from American Avenue to Morrow Road.

Timing/Implementation: Widening shall be implemented concurrent with Phase III.

Monitoring: Community and Economic Development- Planning Division

MM XV.7: Concurrent with Phase III, a third through lane on the northbound approach at Pelandale Avenue/ Dale Road shall be installed.

Timing/Implementation: The additional lane shall be installed and operational concurrent with Phase II.

Monitoring: Community and Economic Development – Traffic Division

MM XV.8: The applicant/developer shall develop a construction management plan for review and approval by the City Traffic Engineer or designee.

Timing/Implementation: Prior to approvals of improvement plans.

Monitoring: Community and Economic Development – Traffic Division

☒ 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)).

☒ Based on the above-referenced Initial Study and feasible mitigation measures 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, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed project.

☒ 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 the mitigation measures described above have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

☒ I further find that the cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan. This project is subject to payment of City Capital Facilities Fees (CFF) to contribute to the construction of identified infrastructure to mitigate impacts identified under the MEIR. The proposed project is consistent with those land uses analyzed in the General Plan Master EIR and set forth in the Modesto Urban Area General Plan. 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, as identified in the Mitigation Monitoring and Reporting Program (Appendix B) and no further evaluation of cumulative impacts is required as this project generates no significant cumulative impact.

☒ As required by CEQA Section 21081.6 et seq., a Mitigation Monitoring and Reporting Program (Appendix B) will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6(b)).

Signature: _____ Date: 6-25-10

for H. Brent Sinclair, AICP
Community and Economic Development Department Director
City of Modesto

Applicants Concurrence

In accordance with Section 15070(b)(1) of the CEQA Guidelines, we hereby consent to the incorporation of the above Mitigation Measures which are also contained in the Ordinance for adoption of the proposed Development Agreement (DEV-09-001).

Signature: _____ Date: 6-25-10

Hans Wagner
Applicant

By Signature: _____ Date: 6/25/2010

Mana Development
Applicant

Appendix A

CITY OF MODESTO

MEMORANDUM

DATE: February 11, 2010

TO: David Wage, Associate Planner

FROM: Jeffrey L. Barnes, Traffic Engineer JLB

SUBJECT: Mana/Wagner Traffic Impact Analysis Update

As you requested at recent meetings regarding the subject project, I have reviewed the 2007 Fehr & Peers (F & P) Transportation Impact Analysis report for the Kiernan Business Park South (KBPS) and the 2009 C & ED Mana-Wagoner (KBPS Phase 1, 2, and 3)Traffic Study Report and my comments updating the reports are as follows:

1. The F & P TIA used an ambient annual traffic growth rate of 2 percent per year to account for regional growth. The C & ED TIA used the same 2 % traffic growth rate from 2009 through 2015, but then the growth rate was increased to 5% from 2016 to 2019. Both studies used the 2025 General Plan build out time frame.

2. The current traffic growth rate is less than 1% and is nearly zero. There were only 38 single family residential building permits issued in Modesto in 2009. Currently, more businesses are closing than new businesses are opening. Some new businesses are opening however, thankfully. The C & ED TIA indicated a growth in traffic of 6% by 2012, 15% by 2016, and 22% by 2019. My current projections are 2% by 2012, 7% by 2016, and 9% by 2019 and these are still potentially on the high side.

3. The existing conditions information for the F & P TIA and the C & ED TIA are nearly identical due to the slow economy. The only difference noted was the level of service (LOS) was improved from D to C in the C &E D TIA because roadway improvements had been completed at the Pelandale Avenue and Dale Road intersection.

4. Other changes that have taken place since the F & P TIA was completed include the changed Kaiser Hospital development schedule. The original Kaiser plan included a hospital support wing (building). That project was delayed by Kaiser for many years. As a result the anticipated traffic generation from the Kaiser site has been significantly reduced. It is still anticipated that Kaiser will follow their master plan and the traffic generation will be realized in the distant future by General Plan build out.

5. Table 7 of the C & ED TIA indicates the Mana-Wagner Phase 1 trip generation would be 130 trips in the am peak hour and 138 trips in the pm peak hour. That traffic would have no significant impact when added to the existing traffic today, in 2012 or 2016 or in 2019.

6. Table 7 of the C & ED TIA indicates the second phase of the Mana-Wagner project would add another 128 trips in the am and 136 trips in the pm. Again, because the existing LOS for the nearby roadway segments and intersections are in the range of A, B, and C the traffic impacts for roadway segments would be less than significant.

7. Table 7 of the C & ED TIA indicates the third phase of the Mana-Wagner project would add another 139 trips in the am and 147 trips in the pm. That is a total of 397 trips in the am and 421 trips in the pm. This additional traffic with the existing and the 9% background growth would still see the segment LOS at A with a volume to capacity of 0.58. The level of service drops to B when the volume to capacity goes to 0.60.

The above information supports the delay in mitigation requirements moving the original phase one requirements to phase two. In addition, the original phase two requirements can be delayed to phase three based on the information above.

I have reviewed you 2/9/10 Traffic Improvements list and it appears very appropriate at this time with the current economic conditions.

I hope this information is helpful.

Thank you.

JLB:wd/referals/Mana-Wagner DA Traffic Study Update 2-11-10
Attachment
cc: Patrick Kelly, Planning Manager
Steve Mitchell, Principal Planner
Helen Wang, Transportation Planner

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-511

A RESOLUTION AMENDING 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, on February 8, 2005, the City Council did amend, pursuant to Resolution No. 2003-289, the Facilities Prioritization List with the following modifications:

1. A portion of Project INT-005 was combined with RD-010 (Floyd Avenue widening between Oakdale Road and Roselle Avenue) was moved from Priority 2 to Priority 1

2. The remainder of Project INT-005 was from Priority 2 to Priority 5.

3. Project PK-005C (Freedom Park Phase 3, 4 & 5 Park Construction) was moved from Priority 3 to Priority 2.

4. PK-004A (Claus Park Street Improvements) was moved from Priority 3 to Priority 2.

5. RD-010 (Floyd Ave. between Fine and Claus) was moved from Priority 4 to Priority 3.

6. INT-007 (Roselle & Merle Intersection Control and Road Widening) was moved from Priority 2 to Priority 4.

7. Project INT-008 (Roselle & Belharbour Intersection Control and Road Widening) was moved from Priority 3 to Priority 2.

8. Project SD-213 (East Basin Property Acquisition) was moved from Priority 3 to Priority 4.

9. Project RD-014 (Roselle Ave.-Briggsmore to Merle, median closure) was moved from Priority 2 to Priority 4.

10. 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) were moved from Priorities 2 & 3 to Priority 5.

WHEREAS, staff has reviewed the Facilities Prioritization List with the Capital Improvement Program Task Force (Task Force) 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, the Task Force 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

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. Move Project INT-003 (Sylvan Avenue/Aria Way Intersection) from Priority 3 to Priority 5.

2. Move Project RD-001A (Sylvan Avenue – South Side Oakdale and Wood Sorrel) from Priority 4 to Priority 5.

3. Move Project RD-001B / RD-003) (Sylvan Avenue – North Side Oakdale and Roselle) from Priority 4 to Priority 5.

4. Move Project INT-006 (Oakdale Road @ Briggsmore – Intersection Improvements) from Priority 4 to Priority 5.

5. Move Project RD-011 (Oakdale Road – Briggsmore to Floyd) from Priority 4 to Priority 5.

6. Move Project SD-213 (East Basin Property Acquisition) from Priority 4 to Priority 5.

7. Move Project RD-014 (Roselle Avenue Median Closure – Briggsmore to Merle) from Priority 4 to Priority 5.

8. Move Project SD-222 (Force Main from Central Basin to Claus Road Line) from Priority 5 to Priority 6.

9. Move Project SD-216 (6 AC-ft Retention Basin on Merle Park) from Priority 5 to Priority 6.

10. Move Project SD-217 (1200' RCP Overflow Line from Fine to Merle Park) from Priority 5 to Priority 6.

11. Move Project SD-223 (850' of 30" RCP Hillglen) from Priority 5 to Priority 6

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Attachment #2 to the Staff Report

Proposed

Village One Projects (All of Partially Fund by the CFD)
Facilities Priority List

Proposed October 2010 Update

PRIORITY 1 FACILITIES		
FMP #	Facility	2003 Cost Estimate
SD-300	West Basin & Ustach Park Frontage	$ 1,213,700.00
SD-205	Hillglen Ave. 60" RCP from Roselle to Esta	$ 608,700.00
SD-203	Village One Storm Drain Improvements (SD-201 through 204,206,209,210 & 214)	$ 2,092,200.00
SD-207	Force Main from West Basin to Central Basin (7000' of PVC FM)	$ 1,051,700.00
PK-003A	Ustach Park Phase 1 & 2 Park Construction	$ 394,800.00
RD-002	Sylvan Avenue - S. side in front of Symphony Park (Wood Sorrel to Aria)	$ 820,000.00
RD-004A,B	Sylvan Avenue - Roselle to Millbrook	$ 2,194,000.00
INT-010	Sylvan/Roselle Intersection	$ 2,242,000.00
INT-009, INT-008	Roselle/Floyd Intersection and Roselle/Belharbour Intersection	$ 2,595,000.00
RD-006	Pedestrian Overcrossing	$ 1,542,000.00
RD-007	Floyd Avenue - Oakdale to Roselle	$ 5,134,000.00
SD-214	Village One- West Basin Landscaping/Erosion Control	$ 1,501,200.00
SD-211	Central Basin Property - Payback to Storm Drain Fund	$ 634,800.00
M-001A	Planning Recoup (1/4 of total)	$ 189,750.00
M-003A	ROW Contingency	$ 382,000.00
	Priority 1 Totals:	$ 22,595,850.00

PRIORITY 2 FACILITIES		
FMP #	Facility	2003 Cost Estimate
PK-005A,B,C & SD-218	Freedom Park Improvements & 24" RCP Merle Park to Merle Ave.	$ 1,040,400.00
PK-003B	Ustach Park Improvements	$ 225,000.00
SD-224	36" RCP along Kodiak Dr. between Oakdale Rd. and Lincoln Oak Dr.	$ 187,100.00
SD-225	48" RCP along Kodiak Dr. between Oakdale Rd. and Lincoln Oak Dr.	$ 362,900.00
PK-004A	Sanders Park Street Improvements	$ 415,100.00
M-001B	Planning Recoup	$ 189,750.00
RD-008,009, SD-227	Floyd Avenue - Roselle to Fine and 42" RCP at Floyd/Fine	$ 5,000,700.00
SD-228, SD-212	Merle Avenue Road Improvement adjacent to Central Basin and 700' of 30" RCP from Merle to Central Basin	$ 228,800.00
INT-008	Roselle & Belharbour Intersection Control & Road Widening	$ 757,000.00
M-003B	ROW Contingency	$ 63,500.00
	Priority 2 Totals:	$ 8,470,250.00

PRIORITY 3 FACILITIES		
FMP #	Facility	2003 Cost Estimate
RD-010	Floyd Ave. from Fine to Claus	$ 2,428,000.00
M-001C	Planning Recoup	$ 189,750.00
PK-004B	Sanders Park Improvements	$ 375,800.00
INT-004	Oakdale/La Force Intersection	$ 946,000.00
RD-015	Roselle Avenue from Sylvan to Floyd	$ 3,520,000.00
INT-002, RD-005, INT-011	Sylvan Ave. from Litt to Claus	$ 3,617,000.00
M-003C	ROW Contingency	$ 145,000.00
	Priority 3 Totals:	$ 11,221,550.00

PRIORITY 4 FACILITIES		
FMP #	Facility	2003 Cost Estimate
M-001D	Planning Recoup	$ 189,750.00
RD-012, RD-013	Oakdale Road between Floyd and Sylvan	$ 2,522,000.00
INT-007	Roselle and Merle Intersection Improvements	$ 295,000.00
INT-001	Sylvan and Oakdale intersection improvements	$ 2,657,000.00
M-003D	ROW Contingency	$ 321,000.00
	Priority 4 Totals:	$ 5,984,750.00

Proposed

Village One Projects (All of Partially Fund by the CFD)
Facilities Priority List

Proposed October 2010 Update

FMP #	Facility	2003 Cost Estimate
INT-003	Sylvan Ave./Ana Way Intersection **(Moved from Priority 3 to Priority 5)**	$ 846,000.00
RD-001A	Sylvan Ave. -South side between Oakdale and Wood Sorrel **(Moved from Priority 4 to Priority 5)**	$ 1,496,000.00
RD-001B, RD-003	Sylvan Ave. - North side between Oakdale Rd. and Roselle Ave.**(Moved from Priority 3 to Priority 5)**	$ 4,042,000.00
INT-006	Oakdale Rd. at Briggsmore Ave. intersection modification **(Moved from Priority 4 to Priority 5)**	$ 98,000.00
RD-011	Oakdale Rd. from Briggsmore to Floyd **(Moved from Priority 4 to Priority 5)**	$ 35,000.00
SD-213	East Basin Property Acquisition **(Moved from Priority 4 to Priority 5)**	$ 3,500,000.00
SD-219A	East Basin Construction (SD-219A)	$ 2,025,000.00
SD-219B	East Basin Landscape Improvements (SD-219B)	$ 2,352,200.00
SD-220	Claus Rd. storm drain trunk line to East Basin	$ 2,700,000.00
SD-221	East Basin Pump Station and completion of Basin (SD-221)	$ 540,000.00
SD-229	Force Main from East Basin to Claus Rd. Line (SD-229)	$ 135,000.00
RD-014	Roselle Ave. -Briggsmore to Merle (Median closure) **(Moved from Priority 4 to Priority 5)**	$ 23,000.00
RD-016	Roselle Ave. from Sylvan Ave. north to City Limit (RD-016)	$ 2,389,000.00
INT-005	Oakdale and Floyd Intersection (INT-005)	$ 1,267,000.00
SD-215	Retention Basin on Grogan Park (SD-215)	$ 81,000.00
PK-001A	Grogan Park Construction Phases 1 & 2 (PK-001A)	$ 6,051,300.00
PD-001	Police Substation - tenant improvements (PD-001)	$ 27,500.00
M-003E	ROW Contingency	$ 29,000.00
	Priority 5 Totals:	**$ 27,637,000.00**
	Priority 1 thru 5 Totals:	**$ 75,909,400**

FMP #	Facility	2003 Cost Estimate
SD-222	Force Main from Central Basin to Claus Road Line **(Moved from Priority 5 to Priority 6)**	$ 540,000.00
SD-216	6 AC-ft Retention basin on Merle Park **(Moved from Priority 5 to Priority 6)**	$ 67,500.00
SD-217	1200' of 36" RCP overflow line from Fine to Merle Park **(Moved from Priority 5 to Priority 6)**	$ 204,100.00
SD-223	850' of 30" RCP Hillglen **(Moved from Priority 5 to Priority 6)**	$ 120,500.00
	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
	Priority 6	**$ 12,084,400.00**
	Total Cost for Priority 1 through 6	**$ 87,993,800.00**

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-512

Print

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO CONFIRMING THE CANVASS OF THE GUBERNATORIAL GENERAL ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON NOVEMBER 2, 2010, AND DECLARING THE RESULTS OF SAID ELECTION

WHEREAS, on Tuesday, November 2, 2010, the Gubernatorial General Election was held in the City of Modesto (herein called "City"), and

WHEREAS, as set forth in Section 3 hereof, Measures J, K and L were submitted to the qualified electors in the November 2, 2010 Gubernatorial General Election, and

WHEREAS, said election was held on Tuesday, November 2, 2010, 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 Gubernatorial General Election in accordance with law, and certified the results of the election by a Certificate of Canvass and Statement of Votes dated November 18, 2010, 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 number of votes given in the City for each Measure.

SECTION 3. The following votes were cast for Measures J, K and L:

Measure	Total Votes For	Total Votes Against
Measure J: *Shall Section 300 of the Modesto City Charter be amended to eliminate run-off elections for Council districts and continue, if necessary, run-off elections for the position of Mayor, to be held on the first Tuesday in February of each even numbered year, commencing with the year 2012 and delete irrelevant dates?*	**28,007**	**15,972**
Measure K *Shall Section 300 of the Modesto City Charter be amended to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the valid votes cast for that office in a regular municipal election and to delete irrelevant dates?*	**28,340**	**15,168**

Measure	Total Votes For	Total Votes Against
Measure L *Shall the City Council provide sewer service to the following described area: "Parklawn Neighborhood"* *The unincorporated area designated "Parklawn Neighborhood" which is described generally as the area bounded by Hatch Road on the north, Pearson Avenue/Union Pacific Railroad on the west, Nelson Way and a line extending from the centerline of Nelson Way westerly to the Union Pacific Railroad on the south, and Morgan Road/Union Pacific Railroad on the east.*	**26,218**	**18,778**

Measure J . More than a majority of all the votes cast at the election for Measure J were in favor of said proposed Measure, and said Measure did carry, was approved, and was ratified by a majority of the qualified voters voting on said Measure J.

Measure K. More than a majority of all of the votes cast at the election for Measure K were in favor of said proposed Measure, and said Measure did carry, was approved, and was ratified by a majority of the qualified voters voting on said Measure K.

Measure L. More than a majority of all of the votes cast at the election for Measure L were in favor of said proposed Measure, and said Measure did carry, was approved, and was ratified by a majority of the qualified voters voting on said Measure L.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

GUBERNATORIAL GENERAL ELECTION
November 2, 2010

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on November 18, 2010, to publicly canvass the returns of the General Election held on November 2, 2010, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

MEASURES	NUMBER OF VOTES	PERCENTAGE OF VOTE

Measure J
Shall Section 300 of the Modesto City Charter be amended to eliminate run-off elections for Council districts and continue, if necessary, run-off elections for the position of Mayor, to be held on the first Tuesday in February of each even numbered year, commencing with the year 2012 and delete irrelevant dates?

28,007	**YES**	**63.68%**
15,972	NO	36.32%

Measure K
Shall Section 300 of the Modesto City Charter be amended to clarify that any run-off election, if necessary, shall be conducted if any candidate for a particular office does not receive a majority of the valid votes cast for that office in a regular municipal election and to delete irrelevant dates?

28,340	**YES**	**65.14%**
15,168	NO	34.86%

Measure L
Shall the City Council provide sewer service to the following described area: "Parklawn Neighborhood"

The unincorporated area designated "Parklawn Neighborhood" which is described generally as the area bounded by Hatch Road on the north, Pearson Avenue/Union Pacific Railroad on the west, Nelson Way and a line extending from the centerline of Nelson Way westerly to the Union Pacific Railroad on the south, and Morgan Road/Union Pacific Railroad on the east.

26,218	**YES**	**58.27%**
18,778	NO	41.73%

VOTER TURNOUT:

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
Measures J, K, L	97,633	51,898	53.16%

Stephanie Lopez
City Clerk
City of Modesto

December 14, 2010

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-513

A RESOLUTION REAPPOINTING BRUCE MERCHANT, JOE ROCHA, JR., JACKY DEABLER, GALENA GILSTRAP, SCOTT HALLMON AND BRYAN SUTTERFIELD 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. BRUCE MERCHANT is hereby reappointed to the Equal Opportunity/Disability Commission; JOE ROCHA, JR. is hereby reappointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission; and JACKY DEABLER, GALENA GILSTRAP, SCOTT HALLMON and BRYAN SUTTERFIELD are hereby reappointed to the Human Relations Commission with term expirations of January 1, 2015.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Commissions and the Secretary thereof.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-514

RESOLUTION REAPPOINTING RON LIGHTEN, SR. TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Ron Lighten Sr. was originally appointed to the Entertainment Commission on August 25, 2010 and

WHEREAS, Ron Lighten Sr. has expressed interest in continuing to serve as a member of the Entertainment Commission

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Ron Lighten, Sr. is hereby reappointed to the Entertainment Commission with a term expiration of January 1, 2015

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Entertainment Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-515

RESOLUTION REAPPOINTING REGINALD RUCKER TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Reginald Rucker was originally appointed to the Entertainment Commission on March 10, 2009 and

WHEREAS, Reginald Rucker has expressed interest in continuing to serve as a member of the Entertainment Commission,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Reginald Rucker. is hereby reappointed to the Entertainment Commission with a term expiration of January 1, 2015

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Entertainment Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-516

RESOLUTION REAPPOINTING PAMELA O'BRIEN TO THE CITY OF MODESTO ENTERTAINMENT COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Pamela O'Brien was originally appointed to the Entertainment Commission on August 25, 2010 and

WHEREAS, Pamela O'Brien has expressed interest in continuing to serve as a member of the Entertainment Commission,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pamela O'Brien is hereby reappointed to the Entertainment Commission with a term expiration of January 1, 2015

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Entertainment Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-517

RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR PROPOSALS FOR ASSESSMENT ENGINEERING SERVICES

WHEREAS, on December 12, 1998, the City of Modesto formed Landscape Maintenance Assessment District No. 1 (LMAD No. 1), and

WHEREAS, LMAD No. 1 was formed in accordance with the "Landscape and Lighting Act of 1972" (the Act) to manage landscape maintenance in the public right-of-way, street medians, and areas adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1 through 6, and

WHEREAS, a review of LMAD No. 1 shows that a Proposition 218 ballot measure is needed to account for an increase in maintenance expenses and replacement of aging infrastructure, and

WHEREAS, it is the intent of the Request for Proposals (RFP) to select a consultant who will assist the City in determining an appropriate method by which the additional maintenance and replacement costs will be apportioned to the properties within LMAD No. 1 and will assist the City in developing the ballot materials and conducting the Proposition 218 election,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to proceed with a Request for Proposals for consultant services for Assessment Engineering Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-518

Print

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC. FOR THE "STATE ROUTE 219 WIDENING FROM WEST OF DALE ROAD TO MORROW ROAD" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $3,776,125.39

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the State Route 219 Widening from West of Dale Road to Morrow Road project has been completed by George Reed, Inc., in accordance with the contract agreement dated January 13, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the State Route 219 Widening from West of Dale Road to Morrow Road project is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $3,776,125.39 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-519

RESOLUTION APPROVING AN ACQUISITION & SHORTFALL AGREEMENT BY AND BETWEEN THE CITY OF MODESTO, CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST) AND CHOPRA DEVELOPMENT ENTERPRISES, INC., WITH A MAXIMUM REIMBURSEMENT AMOUNT NOT TO EXCEED $6,762,710.94, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT IN BOTH THE CAPACITY AS THE CITY MANAGER AND THE DISTRICT ADMINISTRATOR

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Kiernan Business Park Specific Plan area, and

WHEREAS, the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) is located within the Kiernan Business Park Specific Plan area and is bounded by Kiernan Avenue on the north, Bangs Avenue on the south, Dale Road on the west, and American Avenue on the east, and

WHEREAS, Chopra Development Enterprises, Inc. ("Developer") has agreed to install certain infrastructure improvements within Kiernan Business Park East, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("Agreement") by and between the City of Modesto, City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) and Chopra Development Enterprises, Inc., and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $6,762,710.94,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Acquisition & Shortfall Agreement by and between the City of Modesto, City of Modesto Community Facilities District No. 2009-1 (Kiernan Business

Park East) and Chopra Development Enterprises, Inc. for construction of certain improvements within Kiernan Business Park East area.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Acquisition & Shortfall Agreement in both the capacity of the City Manager and the District Administrator.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-520

Print

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF MODESTO FOR THE PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY TREATMENT PROJECT, A FINANCIAL ASSISTANCE APPLICATION, TO CERTIFY THAT THE CITY OF MODESTO HAS AND WILL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS, AND TO NEGOTIATE AND EXECUTE A FINANCIAL ASSISTANCE AGREEMENT FROM THE STATE WATER RESOURCES CONTROL BOARD, AND ANY AMENDMENTS OR CHANGE ORDERS THERETO, AND CERTIFY FINANCING AGREEMENT DISBURSEMENTS ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the City of Modesto has the authority to construct, operate, and maintain the City of Modesto Wastewater Collection and Treatment System, and

WHEREAS, the City of Modesto desires to address water quality problems and to prevent pollution of the waters of the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and directs the City Manager, or his designee, to sign and file, for and on behalf of the City of Modesto for the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Project, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the wastewater infrastructure projects.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it agrees and authorizes the City Manager, or his designee, to certify that the City of Modesto has and will comply with all applicable state and federal statutory and regulatory requirements related to any financing or financial assistance received from the State Water Resources Control Board.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to negotiate and execute a financial assistance agreement from the State Water Resources Control Board and any amendments or change orders thereto, and certify financing agreement disbursements on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-521

A RESOLUTION HEREBY DEDICATING SEWER SERVICE CHARGES TO PAYMENT OF ANY AND ALL CLEAN WATER STATE REVOLVING FUND FINANCING. THIS DEDICATED SOURCE OF REVENUE SHALL REMAIN IN EFFECT THROUGHOUT THE TERM OF SUCH FINANCING UNLESS MODIFICATION OR CHANGE OF SUCH DEDICATION IS APPROVED IN WRITING BY THE STATE WATER RESOURCES CONTROL BOARD

WHEREAS, the City of Modesto has the authority to construct, operate, and maintain the City of Modesto Wastewater Collection and Treatment System, and

WHEREAS, the City of Modesto desires to address water quality problems and to prevent pollution of the waters of the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and dedicates sewer service charges to be used for payment of any and all Clean Water State Revolving Fund Financing throughout the term of such financing unless modification or change of such dedication is approved in writing by the State Water Resources Control Board and for payment of existing City sewer bonds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore. Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2010-522

A RESOLUTION HEREBY STATING A FINANCE AMOUNT TO BE PROVIDED BY THE STATE OF CALIFORNIA AND STATING THE CITY OF MODESTO INTENDS TO REIMBURSE THE STATE OF CALIFORNIA FOR BORROWED FUNDS

WHEREAS, the City of Modesto ("City") has the authority to construct, operate, and maintain the City of Modesto Wastewater Collection and Treatment System, and

WHEREAS, the City desires to address water quality problems and to prevent pollution of the waters of the State, and

WHEREAS, the City desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater system, including certain treatment facilities, pipelines and other infrastructure (the "Project"), and

WHEREAS, the City intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board), and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the City desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the City, and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of the Obligations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City hereby states its intention and reasonably expects to Reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is $130,000,000.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the City will expend moneys for the portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each City Expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, the City is not aware of the previous adoption of official intents by the City that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the City in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and this City so finds, determines and represents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO: 2010-523

Print

A RESOLUTION ACCEPTING THE ANNUAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2010 FOR THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to submit prior to December 31st of each calendar year an Annual Report to the State Controller containing the following documents:

1. State Controller's Report
2. Housing and Community Development Report
3. Blight Progress Report
4. Loan Report
5. Property Report
6. Statement of Indebtedness

which are **attached** hereto as **Exhibit "A"**, and made a part hereof by this reference, and

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to present the Annual Report to its legislative body, and

WHEREAS, the legislative body is defined in Health & Safety Code Section 33007 as the City Council, and

WHEREAS, this Annual Report was approved by the City Council at its regular meeting on December 14, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Annual Report for the Redevelopment Agency of the City of Modesto for the Fiscal Year ending June 30, 2010 is hereby accepted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 14th day of December, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Burnside, Geer, Hawn, Lopez, Marsh, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

General Information

Fiscal Year 2010

Members of the Governing Body

	Last Name	First Name	Middle Initial
Chairperson	Ridenour	Jim	
Member	Lopez	Dave	
Member	Hawn	Brad	
Member	Muratore	Joe	
Member	Marsh	Garrad	
Member	Geer	David	
Member	Olsen	Kristin	
Member			
Member			
Member			

Mailing Address

Street 1	P.O. Box 642				
Street 2					
City	Modesto	State	CA	Zip	95354-
Phone	(209) 571-5566	☐ Is Address Changed?			

Agency Officials

	Last Name	First Name	Middle Initial	Phone
Executive Director	Nyhoff	Greg		(209) 577-5221
Fiscal Officer	Beck	Gloriette		(209) 577-5371
Secretary	Lopez	Stephanie		(209) 577-5398

	Report Prepared By	Independent Auditor
Firm Name		Maze and Associates
Last	Fraser	Meyer
First	Donald	Amy
Middle Initial	J	
Street	225 Holmfirth Court	3478 Buskirk Ave., Suite 215
City	Roseville	Pleasanton
State	CA	CA
Zip Code	95661-	94523-
Phone	(916) 791-8958	(925) 930-0902

Modesto Redevelopment Agency
Redevelopment Agencies Financial Transactions Report

Achievement Information (Unaudited)

Fiscal Year 2010

Indicate Only Those Achievements Completed During the Fiscal Year of this Report as a Direct Result of the Activities of the Redevelopment Agency.

Please provide a description of the agency's activities/accomplishments during the past year.

(Please be specific, as this information will be the basis for possible inclusion in the publication.)

Activity Report

- 10th & H Mixed-Use. A mixed-use project including housing, parking, hotel and retail has an Exclusive Negotiating Agreement to construct the development on an RDA owned parking lot. An MOU was completed in 2007 and additional studies and analysis were undertaken in 2007-08. Project entitlements were approved in November, 2009.

- City Zoning Code. The Agency encourages mixed-use development and has been working with the City of Modesto to create and adopt a Downtown Core Form-Based Mixed-Use zone as part of a specific area plan for the Downtown Core. A mixed-use zone will allow the city to adopt more comprehensive and detailed development standards that could help to foster a human-scale pedestrian-oriented environment. The new Downtown Core Development Code is scheduled to be completed in the Summer of 2010.

- Standard Specifications. Streetscape specifications are being revised in coordination with the City Public Works Department to promote a street environment in downtown Modesto conducive to mixed-use development.

- Outreach and Coordination. The Agency will continue to partner with City departments to advance business development objectives. Staff will also continue to meet regularly with leaders of the Modesto Chamber, Downtown Improvement District, the Alliance, and Convention & Visitors Bureau in a collaborative effort to further the common goals of business attraction and retention.

- Proposed Modification of Project Area Boundaries. The Agency is

Square Footage Completed

Enter the amount of square footage completed this year by building type and segregated by new or rehabilitated construction.

	New Construction	Rehabilitated
Commercial Buildings		
Industrial Buildings		
Public Buildings		
Other Buildings		
Total Square Footage	0	0

Enter the Number of Jobs Created from the Activities of the Agency

Types Completed

A=Utilities B=Recreation C=Landscaping D=Sewer/ Storm E=Streets/ Roads F=Bus/Transit

Achievement Information (Unaudited)

considering expansion in the following areas:

- McHenry Avenue, between Needham Street and Briggsmore Avenue. The area is primarily auto-oriented commercial/retail.

- Yosemite Boulevard, East of Dry Creek. The area is primarily commercial/retail frontage on the north side of the Yosemite Boulevard, and light industrial on the south side.

- The area of the former Modesto Tallow Plant at Crows Landing and Zeff Roads. The area is primarily residential with some agricultural uses. A blight analysis is proposed for the 2010-2014 Redevelopment Implementation Plan period.

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Audit Information

Fiscal Year 2010

Was the Report Prepared from Audited Financial Data, and Did You Submit a Copy of the Audit?	Yes	If compliance opinion includes exceptions, state the areas of non-compliance, and describe the agency's efforts to correct.
Indicate Financial Audit Opinion	Unqualified	
If Financial Audit is not yet Completed, What is the Expected Completion Date?		
If the Audit Opinion was Other than Unqualified, State Briefly the Reason Given		
Was a Compliance Audit Performed in Accordance with Health and Safety Code Section 33080.1 and the State Controller's Guidelines for Compliance Audits, and Did You Submit a Copy of the Audit?	Yes	
Indicate Compliance Audit Opinion	Unqualified	
If Compliance Audit is not yet Completed, What is the Expected Completion Date?		

Modesto Redevelopment Agency
Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2010 **Project Area Name** Community Center Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

Forwarded from Prior Year ?	Yes
Enter Code for Type of Project Area Report	P
P = Standard Project Area Report / A = Administrative Fund	
L = Low and Moderate Income Housing Fund / M = Mortgage Revenue Bond Program	
O = Other Miscellaneous Funds or Programs / S = Proposed (Survey) Project Area	
Does the Plan Include Tax Increment Provisions?	Yes
Date Project Area was Established *(MM-DD-YY)*	7/6/1982
Most Recent Date Project Area was Amended	11/5/1991
Did this Amendment Add New Territory?	Yes
Most Recent Date Project Area was Merged	
Will this Project Area be Carried Forward to Next Year?	Yes
Established Time Limit :	
Repayment of Indebtedness *(Year Only)*	2041
Effectiveness of Plan *(Year Only)*	2022
New Indebtedness *(Year Only)*	2011
Size of Project Area in Acres	2,000
Percentage of Land Vacant at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	4.5
Percentage of Land Developed at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	95.5
Objectives of the Project Area as Set Forth in the Project Area Plan *(Enter the Appropriate Code(s) in Sequence as Shown)*	RICPO

R = Residential I = Industrial C = Commercial P = Public O = Other

Modesto Redevelopment Agency
Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2010

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	642,199,634
Total Assessed Valuation	1,203,472,997

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year 2010

Project Area Name Community Center Project Area

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail				Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607	Total	H & S Code Section 33445	H & S Code Section 33445.5
County	510,357			$510,357		
Cities				$0		
School Districts	706,241			$706,241		
Community College District				$0		
Special Districts				$0		
Total Paid to Taxing Agencies	$1,216,598	$0	$0	$1,216,598	$0	$0
Net Amount to Agency				$5,304,917		
Gross Tax Increment Generated				6,521,515		

Agency Name: _____

Redevelopment Agencies Financial Transactions Report

Capital Improvement Detail

Fiscal Year 2010

Project Area Name	Description	Name of Taxing Agency	Amount	Code Section

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year	2010
Project Area Name	Community Center Project Area
Tax Allocation Bond Debt	
Revenue Bonds	56,271,239
Other Long Term Debt	405,000
City/County Debt	77,399,478
Low and Moderate Income Housing Fund	59,641,651
Other	106,460,604
Total	$300,177,972
Available Revenues	1,977,050
Net Tax Increment Requirements	$298,200,922

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year 2010

Project Area Name Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Certificates of Participation
Year of Authorization	1993
Principal Amount Authorized	27,225,000
Principal Amount Issued	27,225,000
Purpose of Issue	Community Center
Maturity Date Beginning Year	1993
Maturity Date Ending Year	2023
Principal Amount Unmatured Beginning of Fiscal Year	$19,000,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	985,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$18,015,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year 2010

Project Area Name Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Loans
Year of Authorization	2003
Principal Amount Authorized	405,000
Principal Amount Issued	405,000
Purpose of Issue	Economic Development
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2015
Principal Amount Unmatured Beginning of Fiscal Year	$405,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$405,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year 2010

Project Area Name Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Revenue Bonds
Year of Authorization	2008
Principal Amount Authorized	18,899,300
Principal Amount Issued	18,899,300
Purpose of Issue	Refund prior Revenue Bonds
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2033
Principal Amount Unmatured Beginning of Fiscal Year	$18,899,300
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	259,550
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$18,639,750
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Agency Name: _____

Redevelopment Agencies Financial Transactions Report

Non-Agency Long-Term Debt

Fiscal Year	2010
Project Area Name	
Forward from Prior Year	
Bond Type	
Year of Authorization	
Principal Amount Authorized	
Principal Amount Issued	
Purpose of Issue	
Maturity Date Beginning Year	
Maturity Date Ending Year	
Principal Amount Unmatured Beginning of Fiscal Year	
Adjustment Made During Year	
Adjustment Explanation	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	
Principal Amount in Default	
Interest in Default	

Bond Types Allowed:

Mortgage Revenue; Industrial Development; Commercial Revenue Bond; Certificate of Participation

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year 2010

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross *(Include All Apportionments)*	269,402	4,947,810	1,304,303		$6,521,515
Special Supplemental Subvention					$0
Property Assessments					$0
Sales and Use Tax					$0
Transient Occupancy Tax					$0
Interest Income	21,731	128,434	31,413		$181,578
Rental Income					$0
Lease Income					$0
Sale of Real Estate					$0
Gain on Land Held for Resale					$0
Federal Grants					$0
Grants from Other Agencies					$0
Bond Administrative Fees					$0
Other Revenues		171,118	26,398		$197,516
Total Revenues	$291,133	$5,247,362	$1,362,114	$0	$6,900,609

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2010

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	228,790	61,892	109,163		$399,845
Professional Services					$0
Planning, Survey, and Design	13,223		16,805		$30,028
Real Estate Purchases			716,888		$716,888
Acquisition Expense					$0
Operation of Acquired Property					$0
Relocation Costs					$0
Relocation Payments					$0
Site Clearance Costs					$0
Project Improvement / Construction Costs			119,116		$119,116
Disposal Costs					$0
Loss on Disposition of Land Held for Resale					$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2010

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					$0
Rehabilitation Costs			52,148		$52,148
Rehabilitation Grants					$0
Interest Expense		1,732,811			$1,732,811
Fixed Asset Acquisitions					$0
Subsidies to Low and Moderate Income Housing					$0
Debt Issuance Costs					$0
Other Expenditures Including Pass-Through Payment(s)		3,432,978			$3,432,978
Debt Principal Payments:					
Tax Allocation Bonds and Notes					$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds		1,244,550			$1,244,550
City/County Advances and Loans					$0
All Other Long-Term Debt					$0
Total Expenditures	$242,013	$6,472,231	$1,014,120	$0	$7,728,364
Excess (Deficiency) Revenues over (under) Expenditures	$49,120	($1,224,869)	$347,994	$0	($827,755)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2010

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					$0
Proceeds of Refunding Bonds					$0
Payment to Refunded Bond Escrow Agent					$0
Advances from City/County					$0
Sale of Fixed Assets					$0
Miscellaneous Financing Sources (Uses)					$0
Operating Transfers In	170,000	1,178,652			$1,348,652
Tax Increment Transfers In					$0
Operating Transfers Out	1,178,652	170,000			$1,348,652
Tax Increment Transfers Out					$0
(To the Low and Moderate Income Housing Fund)					
Total Other Financing Sources (Uses)	($1,008,652)	$1,008,652	$0	$0	$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2010

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses	($959,532)	($216,217)	$347,994	$0	($827,755)
Equity, Beginning of Period	$1,382,040	$2,528,425	$3,777,460	$0	$7,687,925
Prior Period Adjustments	-24,078	-905,922	930,000		$0
Residual Equity Transfers					$0
Equity, End of Period	$398,430	$1,406,286	$5,055,454	$0	$6,860,170

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2010	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Assets and Other Debits							
Cash and Imprest Cash	422,540	1,023,416	1,629,528				$3,075,484
Cash with Fiscal Agent		2,082,453					$2,082,453
Tax Increments Receivable		226,697	4,469				$231,166
Accounts Receivable							$0
Accrued Interest Receivable	1,143	4,953	864				$6,960
Loans Receivable			2,211,000				$2,211,000
Contracts Receivable							$0
Lease Payments Receivable					37,059,750		$37,059,750
Unearned Finance Charge							$0
Due from Capital Projects Fund							$0
Due from Debt Service Fund							$0
Due from Low/Moderate Income Housing Fund							$0
Due from Special Revenue/Other Funds							$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2010	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Investments							$0
Other Assets			1,249,071				$1,249,071
Investments: Land Held for Resale			784,000				$784,000
Allowance for Decline In Value of Land Held for Resale							$0
Fixed Assets: Land, Structures, and Improvements						5,528,424	$5,528,424
Equipment						1,328,266	$1,328,266
Amount Available In Debt Service Fund							$0
Amount to be Provided for Payment of Long-Term Debt							$0
Total Assets and Other Debits *(Must Equal Total Liabilities, Other Credits, and Equities)*	$423,683	$3,337,519	$5,878,932	$0	$37,059,750	$6,856,690	$53,556,574

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2010	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Liabilities and Other Credits							
Accounts Payable	175	706,240	2,751				$709,166
Interest Payable							$0
Tax Anticipation Notes Payable							$0
Loans Payable			575,000				$575,000
Other Liabilities	25,078	1,224,993	245,727				$1,495,798
Due to Capital Projects Fund							$0
Due to Debt Service Fund							$0
Due to Low/Moderate Income Housing Fund							$0
Due to Special Revenue/Other Funds							$0
Tax Allocation Bonds Payable							$0
Lease Revenue, Certificates of Participation Payable, Financing Authority Bonds					36,654,750		$36,654,750
All Other Long-Term Debt					405,000		$405,000
Total Liabilities and Other Credits	$25,253	$1,931,233	$823,478	$0	$37,059,750		$39,839,714

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2010	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Equities							
Investment In General Fixed Assets						6,856,690	$6,856,690
Fund Balance Reserved		1,406,286	5,055,454				$6,461,740
Fund Balance Unreserved-Designated							$0
Fund Balance Unreserved-Undesignated	398,430						$398,430
Total Equities	$398,430	$1,406,286	$5,055,454	$0		$6,856,690	$13,716,860
Total Liabilities, Other Credits, and Equities	$423,683	$3,337,519	$5,878,932	$0	$37,059,750	$6,856,690	$53,556,574

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Summary, Combined Transfers In/Out

Fiscal Year	2010
Operating Transfers In	$1,348,652
Tax Increment Transfers In	$0
Operating Transfers Out	$1,348,652
Tax Increment Transfers Out	$0

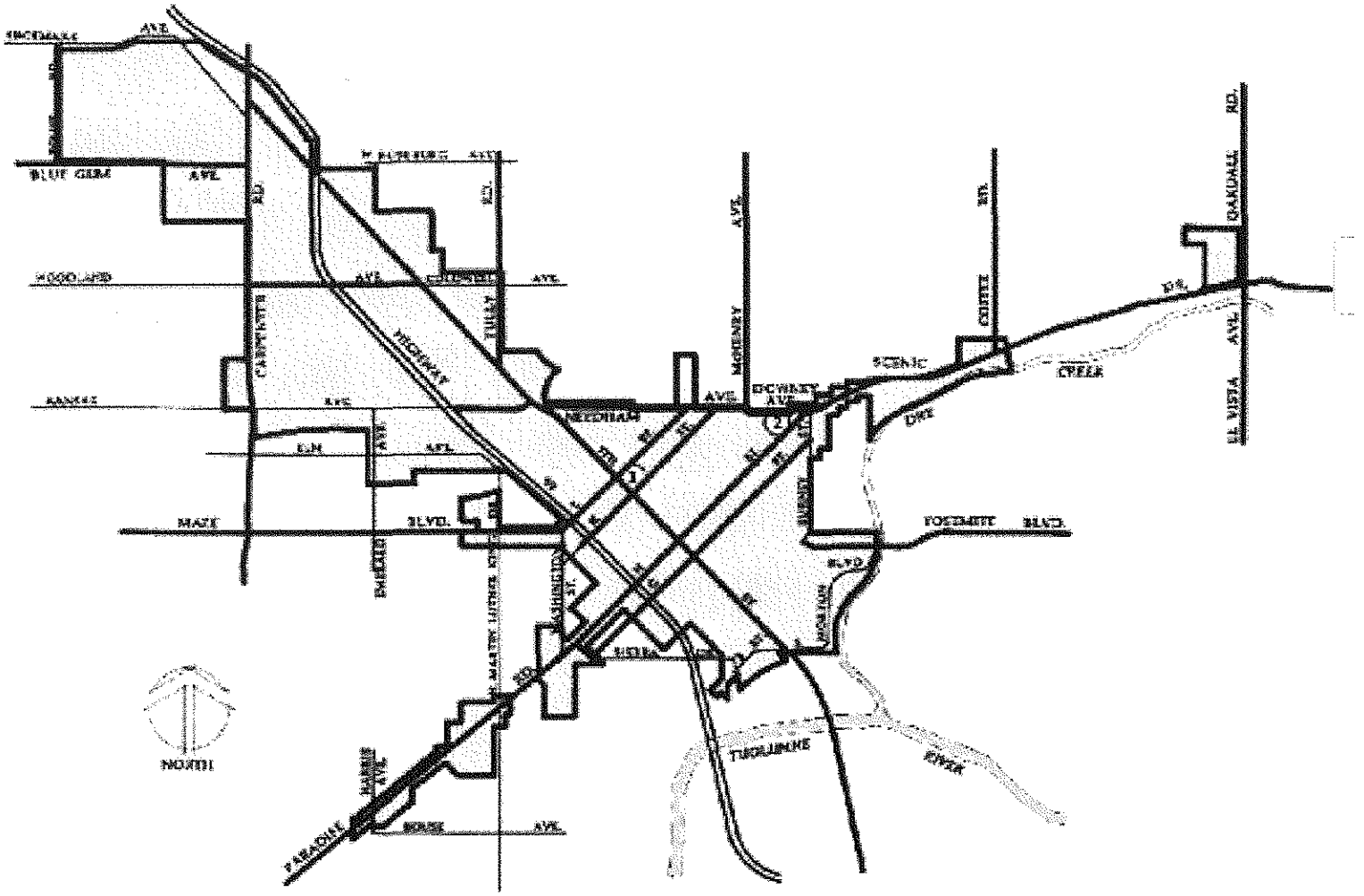
FY 2010
MODESTO REDEVELOPMENT AGENCY

HEALTH AND SAFETY CODE §33080.1

- *ALLEVIATION OF BLIGHT*
- *LOAN DEFAULT REPORT*
- *PROPERTY LISTING*

MODESTO REDEVELOPMENT AGENCY
PROJECT AREA

2000 Acres (Est.)



I. HEALTH AND SAFETY CODE §33080.1(d)

ALLEVIATION OF BLIGHT

The Modesto Redevelopment Agency's goal is to stimulate new public and private investment in order to overcome the problems that have been created in past decades. Through new investment, both the physical and social environment of the project area will be improved. Private investment, with the assistance of the Agency, will help to:

- Overcome blight created by deteriorated and obsolete buildings
- Stabilize land uses
- Provide needed public parking
- Create new parcels amenable to modern development.

Employment opportunities, both in the short and long term, will help to overcome problems of poverty not only in the Project Area, but also in the City as a whole. Increased employment opportunities, appropriate project design and, most importantly, higher levels of activity in the Project Area --- especially in the evenings --- will decrease the crime rates.

During FY 2009, the Redevelopment Agency of the City of Modesto completed the following actions to implement the objectives of the Implementation Plan in alleviating blight within the Project Area. (Note: The Agency's Implementation Plan was approved in December 2005 for the period of 2005-2009.)

Vision

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region

Goals

Goal 1
Create a unique and recognizable image for Modesto and use it to strenuously promote the City.

Project: Outreach and Coordination
Agency Expenditure: $500
Status: Initiated August 2009: Ongoing
The Agency will continue to partner with City departments to advance economic development objectives. Staff will also continue to meet regularly with leaders of the Modesto chamber, Downtown Improvement District, the Alliance, and Modesto Convention & Visitors Bureau in a collaborative effort to further the common goals of business attraction and retention.Goal 2
Promote the economic viability of the Redevelopment Area by attracting new development.

Project: Kansas Woodland Business Park Development
Agency Expenditure: $2,000,000 (Pending Close of Escrow)
Status: Close of Escrow: December 31, 2010
Beginning in January 2000, and in conjunction with development of the Business Park Development Program, staff has been working to redevelop a "brownfield" parcel owned by the FMC Corporation and located directly adjacent to State Route 99. The Agency has collaborated with the State agencies and with adjacent property owners to determine the interest in, and feasibility of the development of a commercial/retail/light industrial business park.

Towards this end, the Agency formed a multi-disciplinary development team comprised of in-house staff and consultants to work on the proposed Business Park. During FY 2007-2008, the Agency approved proposed terms and conditions of a Purchase Agreement for the 45-acre FMC property. The Agency intends to purchase the property and re-sell it to a private developer to construct a business park. FMC and the Agency are in the process of finalizing the requisite documents to accomplish this property transfer and we anticipate opening escrow in January 2009. The final property transfer between the Agency and FMC is expected in early Spring 2009.

Since January 2000, the Agency has expended a total of $1,300,000 in staff costs to complete this priority project. Staff is working concurrently on the following critical path items:

- Developer Agreement (DA) and revisions to the property transfer documents
- Completion of the Remedial Action Plan for soils and groundwater for remediation of the brownfield
- Completion of the Specific Plan for development of the Business Park
- Completion of the Tentative Subdivision Map for the Business Park
- Completion of the Programmatic Environmental Impact Report for the Specific Plan

In January, 2009 the Agency entered into a purchase and sale agreement with FMC Corporation and is in the process of completing the due diligence efforts prior to completing the sale. Close of escrow has been extended twice and is scheduled for December 31, 2010.

Goal 3
Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.

Project: Mixed-Use Project – 10th Street & H Street
Agency Expenditure: $630,000 in land value
Status: Memorandum of Understanding with Team Modesto – Adopted: May 22, 2007
The Agency owns four (4) parcels of land at the southwest corner of 10th & H Streets. The Agency Board has directed staff to identify a public-private partnership for the development of a high-quality Mixed-Use Project on this 31,500 square-foot Project Site. After completing the Request for Proposal process, the Agency entered into an Exclusive Negotiating Agreement with Team Modesto, a local development group, on August 3, 2005 for development of this project. The ENA contemplates the following proposed land use:

a. Public parking garage and other parking
b. Ground level: Retail (25,000 sf)
c. Floors 2-3: Office and Parking (164 spaces)
d. Floors 4-7: One and two story townhomes with bi-level open gardens

The Agency and Team Modesto completed a Memorandum of Understanding, adopted on May 22, 2007, which includes the following tasks:

1. Proposed project design, land uses, parameters, land assembly and pre-planning
2. Various studies, including environmental analysis pursuant to CEQA
3. Requirements for the mixed-use development, including the Site development schedule
4. Terms of the parking agreement for public parking to be provided on the Site

Property entitlements for this project were approved by Council in December, 2009.

Goal 4
Provide the rationale and impetus for the City to update its development standards to support the goals identified in this document.

Project: Amendment of City of Modesto Zoning Codes
Agency Expenditure: $5,000
Status: Completed in October 2010
The Redevelopment Advisory Commission started the process of revising the City of Modesto Zoning Code to allow for new land uses, including mixed use in the Downtown. These code improvements will mirror the Agency's goals of encouraging a diverse inventory of mixed-use zones throughout the Project Area and facilitating the developer's permit process and requirements. In FY2009 a public workshop was held to initiate dialogue with downtown property and business owners on what the downtown core area might look like. Input from the workshop and subsequent input from the Citizens Redevelopment Advisory Commission has resulted in the completion of a scope of work by City Planning staff. A new form based zoning code for the Downtown Core area was approved in October, 2010.

Goal 5
Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.

Project: Affordable Housing Project – N. 9th Street
Estimated Agency Expenditure: $6,749,000
Status: Construction anticipated to begin in December 2011
On March 21, 2007, the Agency and the City of Modesto were contacted by EAH, Inc., proposing construction of a one-hundred fifty (150) unit affordable housing development ("Archway Commons") at North 9th and Carver Street in the City of Modesto. Agency and City staff met jointly in preliminary discussions to review options for financial assistance toward the development of "Archway Commons". Some of the major milestones achieved to date have been:

- The Agency has purchased all the necessary land to develop Archway Commons totaling $3,980,000
- The Agency and the developer EAH, Inc. have executed a Disposition and Development Agreement (DDA)
- Through the executed DDA, the Agency has released $900,000 to the developer for pre-development activities such as site design, engineering, etc.
- The developer has secured all permanent sources of financing for the project with an exception of Federal& State Tax Credits
- The developer has submitted three applications for Federal & State Tax Credits. In the current economy this process has become extremely difficult but the Agency remains confident that the developer will be successful in obtaining the final piece of funding

On June 23, 2010, the Agency worked with the developer EAH, Inc. to split the project into two phases. This was done in an effort to strengthen the developers' Federal & State Tax Credit application. The Agency has allocated a total of $6,947,093 to the project. Through an executed DDA a loan has been established which consist of the remaining $1,869,000 that still needs to be spent for construction activities, $900,000 for pre-development activities and $3,980,000 for land acquisition cost. The total loan amount is $6,749,000. In July 2010, the developer applied for Federal & State Tax Credits worth an estimated $14,000,000. This application was unsuccessful in obtain a credit reservation. EAH and the City are currently working on a new strategy for a new tax credit submittal in March 2011.

At this time, Archway Commons is ready to break ground and is just awaiting tax credits. If Archway Commons is successful in securing the necessary Tax Credits the project could break ground as early as December 2011.

The proposed site for this project demonstrates the following advantages to the Agency:

1. Site is inside the RDA Project Area
2. Site is identified as a Catalyst Site in the RDA Master Plan
3. Site is surrounded on two sides with residential and a neighborhood shopping center, creating a good adjacent land use mix
4. Site was a County island that was annexed into the City as part of the project
5. Site is 8.46 acres which affords room for a significant number of Multi-family apartment rentals

Project: Affordable Housing Project – Palm Valley
Estimated Agency Expenditure: $730,000
Status: Owner Participation Agreement for project development
This is an existing apartment complex on East Coolidge Avenue consisting of 40 units. The Agency partnered with HOME funds to help the local Housing Authority acquire all 40 units and convert the units to affordable housing. The Agency also provided funds to the local Housing Authority to rehabilitate one of the existing units to upgrade to an accessible unit and installed a security gate to fully secure the property. This property was acquired in Fiscal Year 2008-2009 and the property improvements were completed in Fiscal Year 2009-2010. The Agency provided a loan in the amount of $730,000.to finance this project.

Project: Affordable Housing Project – Senior Affordable Units on 412 & 416 Downey Ave.
Estimated Agency Expenditure: $525,000
Status: Purchase of property to construct senior affordable housing
In Fiscal Year 2008 & 2009 the Agency purchased 416 Downey Avenue from the City of Modesto for $525,000. Previously, the property was home to fire station number one which was decommissioned in the 1980's. The property was operated by building services and used to provide homeless services up until the Agency acquired the property. The property was determined to be unsafe and therefore the building was demolished to pave the way for the future development of 11 units of senior affordable housing. Shortly after the Agency acquired 416 Downey Avenue, the City of Modesto's Community Development Block Grant (CDBG) funds were used to acquire the adjacent property located at 412 Downey Avenue. The property was purchased so 416 & 412 Downey Avenue could be joined together to make one parcel to provide the necessary building space needed to build the 11 units of senior affordable housing.

Currently, CDBG funds are in the process of demolishing 412 Downey Avenue. Once the demolition is complete the site will be ready for development. The Agency released a Request for Proposal (RFP) soliciting for affordable housing developers and on April 6, 2010 the RFP closed.

Over the next year the Agency will be working with the chosen developer to develop the project and will assist in the financing components of the project.

Project: Affordable Housing Project – 17th & G Streets
Agency Expenditure: $780,000
Status: Potential location for 48 units for senior housing.
In Fiscal Year 2007 & 2008 the Agency purchased property located at 17th & G Streets for $780,000.00. The property is home to the infamous "Water Tower" which must be removed if the property is to be a viable location for affordable housing. The delay behind this project is due to the securing of funding needed to allow the water tank to be removed. Community Development Block Grant (CDBG) funding has currently budgeted $120,000.00 towards the removal of the water tower allowing the project to move forward in developing affordable housing.

Last fiscal year the Agency released a Request for Qualifications (RFQ) for the development of 17th & G Streets. This RFQ did not require the detailed and specific plans typically requested in this type of process, but rather focused on having the proposers submit information demonstrating their ability to build a complex project on a difficult property (in this case very small). This saved money while producing options for the Agency. Once a developer was selected then the chosen developer was required to submit a full proposal with all specifics contained within its second submittal.

Through the RFQ process, Satellite Housing & American Baptist Homes of the West was selected as the developer. The developer has proposed 48 units of Senior Affordable Housing on this site serving seniors who are at 50% or below the area median income. The project has a timeframe of breaking ground by November 2012.

The Agency is working with the developer on preliminary design issues and towards a funding commitment subject to final Agency approval on June 8, 2010. Once the developer has Agency commitment then the developer will begin working on all other permanent sources of funding needed to make 17th & G Streets a reality. The goal is to have all design & construction documents completed by November 2011 and have all permanent sources of financing secured by November 2012 with construction to follow shortly after.

Goal 6
Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.

Project: Tuolumne River Regional Park
Agency Expenditure: Expense Paid By Private Developers
The Tuolumne River is the foremost natural asset bordering in the Redevelopment Project Area. The City of Modesto has adopted a Master Plan for the development of this valuable open space. Bluff property overlooking the park should be investigated as a site for a regional educational and recreational facility oriented primarily to children and families.

Project: New private parks and plazas
Agency Expenditure: Expense Paid By Private Developers
As part of the implementation of the form-based zoning code, the Agency will be working with the City Planning Commission to include the development requirement for open space and plazas within all private developments in the Project Area. These open space areas will encourage pedestrian traffic and will also address the issue of building massing in the downtown.

Goal 7
Develop historic I and 10th Streets as an attractive, pedestrian-oriented zone. Create a clear sense of arrival at Modesto's downtown by enhancing the 6th and I Street Gateway and the intersection of I and 10th Streets.

Goal 8
Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area.

Project: Downtown Infrastructure
Agency Expenditure: $300,000
Status: Ongoing

Complete Streets:
Work on redesign of the downtown streets to accommodate multiple modes of transporation (i.e., vehicles, bicycles, pedestrians and transit, etc.) began with development of the recently-adopted Downtown Core Zone. Originally intended to apply to the downtown core, the effort has expanded to include the entire downtown area. This project is being facilitated by staff from various disciplines, including Planning, Land Development Engineering, Traffic Engineering, Transit and Parks staff. Several meetings have occurred with the City's Economic Development Committee and members of the public to solicit input on design and various street elements. The next meeting is scheduled for December 13, 2010.

Utilities:
Work on upgrading the utilities (sewer, water and storm drainage) for anticipated downtown redevelopment has recently begun. Like complete streets, this effort is a companion to the recently-adopted Downtown Core Zone. A team of City staff has been selected to project intensification of the downtown over the next several years in order to determine the level of utility upgrades that are necessary in order to accommodate that additional growth.

II. HEALTH AND SAFETY CODE §33080.1(e)

REPORT ON ALL LOANS IN DEFAULT

The Modesto Redevelopment Agency has no loans in excess of $50,000 that are in default from the previous fiscal year or that are not in compliance with the terms of the loan approved by the Agency.

III. HEALTH AND SAFETY CODE §33080.1(f)

PROPERTY LISTING

Property List:

	APN	Address	Street	City, State	Current use
1	105-37-32	11TH STREET	11TH ST	MODESTO, CA 95354-0000	Parking garage
2	105-37-33	1010 TENTH ST 1st FLOOR	1010 10TH ST	MODESTO, CA 95354	Retail parcel
3	105-37-34	1010 TENTH ST 1st FLOOR	10TH ST	MODESTO, CA 95354	Retail parcel
4	105-41-21	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Parking garage
5	105-48-06	1125 9TH STREET	1125 9TH ST	MODESTO, CA 95354-0000	Parking garage
6	105-48-08	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Centre Plaza Bridge
7	105-48-11	1150 9TH ST	1125 11TH ST	MODESTO, CA 95354-0000	Centre Plaza
8	106-42-01	10th Street & H Street	10TH Street	MODESTO, CA 95354-0000	Parking Lot
9	106-42-02	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
10	106-42-03	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
11	106-42-04	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
12	106-06-02	17th & G Street	17th Street	MODESTO, CA 95354-0000	Park Site

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2010-11 TAX YEAR

Cover Page

Name of Redevelopment Agency MODESTO REDEVELOPMENT AGENCY

Name of Project Area MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 95,576,356.00	$ 2,060,149.00
(Optional) **Post Fiscal Period - Totals**	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 95,576,356.00	$ 2,060,149.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 1,977,050.00	
Net Requirement		(5)	$ 93,599,306.00	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

Gloriette Beck, CPA — Name

Director of Finance — Title

Signature

September 28, 2010 — Date

Rev 6/3/94

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2010-11 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY
Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2010

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Loan from City of Modesto	12/12/82	49,050.00	open	7%	305,461.00	354,511.00	
(B) Loan from City of Modesto	4/24/84	25,000.00	open	7%	137,314.00	162,314.00	
(C) Loan from City of Modesto	4/24/84	35,000.00	open	7%	192,240.00	227,240.00	
(D) Loan from City of Modesto	4/24/84	2,200,000.00	open	7%	12,083,660.00	14,283,660.00	
(E) Loan from City of Modesto	10/12/84	640,000.00	open	7%	3,366,649.00	4,006,649.00	
(F) Loan from City of Modesto	1/31/85	1,187,500.00	open	7%	6,068,563.00	7,256,063.00	
(G) Loan from City of Modesto	11/01/85	3,300,000.00	open	7%	15,718,383.00	19,018,383.00	
(H) Loan from City of Modesto	10/26/86	81,000.00	open	7%	351,157.00	432,157.00	
(I) Certificates of Participation	05/27/93	27,225,000.00	30 yrs.	2.5%-5.6%	28,137,586.00	24,816,515.00	1,946,310.00
(J) Transfer/loans from City	06/30/03	1,490,573.00	open	7%	4,806,963.00	6,297,536.00	
Sub Total, This Page						$ 76,855,028.00	$ 1,946,310.00
Totals Forward From All Other Pages						$ 18,721,328.00	$ 113,839.00
Grand Totals						$ 95,576,356.00	$ 2,060,149.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 95,576,356.00	

Purpose of Indebtedness:

(A) Legal - Consulting & Administration

(B) Legal - Consulting & Administration

(C) Legal - Consulting & Administration

(D) Land Acquisition

(E) Archetectural costs & consulting

(F) Land Acquisition - Site preparation & construction

(G) Land Acquisition & Construction

(H) Land Acquisition

(I) Construction of Community Center

(J) Transfers/loans from City , per City Council/RDA 6/30/03

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2010-11 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2010

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Low-Mod Housing Set-aside	11/05/91	-	40 yrs.	n/a	n/a	18,721,328.00	113,839.00
(B)							
(C)							
(D)							
(E)							
(F)							
(G)							
(H)							
(I)							
(J)							
(K)							
(L)							
Total This Page						$ 18,721,328.00	$ 113,839.00

Purpose of Indebtedness:

(A) 20% Low-Mod Income Housing set-aside (new est.)

(B)

(C)

(D)

(E)

(F)

(G)

(H)

(I)

(J)

(K)

(L)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency MODESTO REDEVELOPMENT AGENCY

Name of Project Area MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2010-11 Reconciliation Dates: From July 1, 2009 To June 30, 2010

Debt Identification: SOI, page and line: Prior Yr	Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Loan from City of Modesto	330,940.00	Interest added 23,571.00				354,511.00
Pg 1 Line B	Pg 1 Line B	Loan from City of Modesto	151,522.00	Interest added 10,792.00				162,314.00
Pg 1 Line C	Pg 1 Line C	Loan from City of Modesto	212,131.00	Interest added 15,109.00				227,240.00
Pg 1 Line D	Pg 1 Line D	Loan from City of Modesto	13,333,950.00	Interest added 949,710.00				14,283,660.00
Pg 1 Line E	Pg 1 Line E	Loan from City of Modesto	3,740,250.00	Interest added 266,399.00				4,006,649.00
Pg 1 Line F	Pg 1 Line F	Loan from City of Modesto	6,773,612.00	Interest added 482,451.00				7,256,063.00
Pg 1 Line G	Pg 1 Line G	Loan from City of Modesto	17,753,864.00	Interest added 1,264,519.00				19,018,383.00
Pg 1 Line H	Pg 1 Line H	Loan from City of Modesto	403,423.00	Interest added 28,734.00				432,157.00
TOTAL - THIS PAGE			42,699,692.00	3,041,285.00				45,740,977.00
TOTALS FORWARD			50,986,054.75	923,518.25		633,383.00	1,440,811.00	49,835,379.00
GRAND TOTALS			$ 93,685,746.75	$ 3,964,803.25	$ -	$ 633,383.00	$ 1,440,811.00	$ 95,576,356.00

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2010-11 Reconciliation Dates: From July 1, 2009 To June 30, 2010

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line I	Pg 1 Line I	Certificates of Participation	26,764,032.00			506,706.00	1,440,811.00	24,816,515.00
Pg 1 Line J	Pg 1 Line J	Transfer/loans from City	5,878,816.00	Interest added 418,720.00				6,297,536.00
Pg 2 Line A	Pg 2 Line A	Low-Mod Housing Set-aside	18,343,206.75	Adj. to total debt 504,798.25		126,677.00		18,721,328.00
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
TOTAL - THIS PAGE			50,986,054.75	923,518.25		633,383.00	1,440,811.00	49,835,379.00

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

TAX YEAR 2010-11

RECONCILIATION DATES: JULY 1, 2009 TO JUNE 30, 2010

1.	Beginning Balance, Available Revenues (See Instructions)	$	1,977,050.00
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$	633,383.00
3.	All other Available Revenues Received (See Instructions)	$	-
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$	1,440,811.00
5.	Sum of Lines 1 through 4	$	4,051,244.00
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$	2,074,194.00
7.	Available Revenues, End of Year (5 - 6)	$	1,977,050.00

FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefor omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

Rev (5/2/94)

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2010-11 TAX YEAR

Cover Page

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 204,601,616.31	$ 3,819,439.00
(Optional) **Post Fiscal Period - Totals**	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 204,601,616.31	$ 3,819,439.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 0.00	
Net Requirement		(5)	$ 204,601,616.31	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

Gloriette Beck, CPA — Name

Director of Finance — Title

Signature

September 28, 2010 — Date

Rev 6/3/94

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2010-11 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY
Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

For Indebtedness Entered into as of June 30, 2010

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Pass through: Y.C.C.D.	11/5/91	4,258,077.00	40 yrs.	n/a	n/a	6,962,280.95	116,000.00
(B) Pass through: Modesto City Schools	11/05/91	25,327,263.00	40 yrs.	n/a	n/a	41,577,875.99	692,000.00
(C) Pass through: County Office of Education	11/05/91	3,705,080.00	40 yrs.	n/a	n/a	6,047,474.54	101,000.00
(D) Pass through: Stanislaus County	11/05/91	29,150,160.00	40 yrs.	n/a	n/a	51,872,972.57	588,000.00
(E) Low-Mod Housing Set-aside	11/05/91	32,216,556.00	40 yrs.	n/a	n/a	40,920,323.26	1,173,600.00
(F) Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	03/11/98	-			-		
(G) Stanislaus Co. Economic Development "Bank" - Kansas Ave BP	11/06/02	405,000.00	13 yrs.	none	none	405,000.00	
(H) City of Modesto All prior transfers now loans	06/30/03	11,463,277.00	open	7%	13,897,688.00	25,360,965.00	
(I) Reimbursement Agreement - MPF 2008 Lease Revenue Bonds	09/01-08	18,633,323.00	25 yrs.	3.614% with SWAP	12,821,401.00	31,454,724.00	1,148,839.00
(J)							
Sub Total, This Page						$ 204,601,616.31	$ 3,819,439.00
Totals Forward From All Other Pages							
Grand Totals						$ 204,601,616.31	$ 3,819,439.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 204,601,616.31	

Purpose of Indebtedness:

(A) Agreement pursuant to H&S Code Section 33401

(B) Agreement pursuant to H&S Code Section 33401

(C) Agreement pursuant to H&S Code Section 33401

(D) Agreement pursuant to H&S Code Section 33401

(E) 20% Low-Mod Income Housing set-aside (new est.)

(F) Tenth Street Place project - site acquisition and construction, RDA share of Modesto Public Financing Authority 1998 Lease Revenue Bonds

(G) Planning costs re: the proposed Kansas Ave. Business Park

(H) Transfers/loans from City, per City Council/RDA 6/30/03

(I) RDA Share of Modesto Financing Authority 2008 Refunding Lease Revenue Bonds

(J)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2010-11 Reconciliation Dates: From July 1, 2009 To June 30, 2010

Debt Identification: SOI, page and line: Prior Yr	Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Pass through: Y.C.C.D.	7,052,614.08			90,333.13		6,962,280.95
Pg 1 Line B	Pg 1 Line B	Pass through: Modesto City Schools	42,115,182.14			537,306.15		41,577,875.99
Pg 1 Line C	Pg 1 Line C	Pass through: County Office of Education	6,126,076.09			78,601.55		6,047,474.54
Pg 1 Line D	Pg 1 Line D	Pass through: Stanislaus County	52,383,329.57			510,357.00		51,872,972.57
Pg 1 Line E	Pg 1 Line E	Low-Mod Housing Set-aside	41,006,565.90	Adj. to total debt 1,086,914.89		1,173,157.53		40,920,323.26
Pg 1 Line F	Pg 1 Line F	Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	-					
Pg 1 Line G	Pg 1 Line G	Stanislaus Co. Economic Development "Bank" - Kansas Ave BP	405,000.00					405,000.00
Pg 1 Line H	Pg 1 Line H	City of Modesto All prior transfers now loans	23,721,408.00	interest added 1,689,557.00		50,000.00	-	25,360,965.00
Pg 1 Line I	Pg 1 Line I	Reimbursement Agreement MPF 2008 Lease Revenue Bonds	32,222,654.00	Adjust for SWAP Int 261,913.00		1,029,843.00		31,454,724.00
TOTAL - THIS PAGE			205,032,829.78	3,038,384.89	-	3,469,598.36	-	204,601,616.31
TOTALS FORWARD				2,396,189.28		2,396,189.28		
GRAND TOTALS			$ 205,032,829.78	$ 5,434,574.17	$ -	$ 5,865,787.64	$ -	$ 204,601,616.31

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency MODESTO REDEVELOPMENT AGENCY

Name of Project Area MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2010-11 Reconciliation Dates: From July 1, 2009 To June 30, 2010

			A	B	C	D	E	F
Debt Identification:			Outstanding Debt	Adjustments		Amounts Paid Against		Remaining
SOI, page and line:		Brief	All Beginning	Increases	Decreases	Indebtedness, from:		Balance
Prior Yr	Current Yr	Description	Indebtedness	(Attach Explanation)	(Attach Explanation)	Tax Increment	Other Funds	(A+B-C-D-E)
Pg new Line new	Pg Line	T/I paid on Orig Area COP		T/I paid on Orig Area COP 2,126,787.28		2,126,787.28		
Pg new Line new	Pg Line	T/I for Admin & ERAF		T/I for Admin 154,795.00		154,795.00		
Pg new Line new	Pg Line	T/I for Projects		T/I for Projects 114,607.00		114,607.00		
TOTAL - THIS PAGE				2,396,189.28		2,396,189.28		

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

TAX YEAR 2010-11

RECONCILIATION DATES: JULY 1, 2009 TO JUNE 30, 2010

1.	Beginning Balance, Available Revenues (See Instructions)	$ -
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$ 5,865,787.64
3.	All other Available Revenues Received (See Instructions)	$ -
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$ -
5.	Sum of Lines 1 through 4	$ 5,865,787.64
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$ 5,865,787.64
7.	Available Revenues, End of Year (5 - 6)	$ -

FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefore omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

Rev (5/2/94)

California Redevelopment Agencies - Fiscal Year 2009/2010
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial Summary
MODESTO

DRAFT

Adjusted Beginning Balance	Project Area Receipts	Agency Other Revenue	Total Expenses	Net Resources Available	Other Housing Fund Assets	Total Housing Fund Assets	Encum-brances	* Unen-cumbered Balance	Unen-cumbered Designated	Unen-cumbered Not Dsgntd
$4,707,460	$1,465,212	$0	$1,486,287	$4,686,385	$0	$4,686,385	$0	$4,686,385	$0	$4,686,385

Expenses	Housing Construction	Other	Planning and Administration Costs	Property Acquisition	SERAF loan	Subsidies	Total
2009/2010	$97,839	$50,000	$109,163	$754,970	$422,167	$52,148	$1,486,287

*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

12/01/10

DRAFT

California Redevelopment Agencies - Fiscal Year 2009/2010
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial and Program Detail
MODESTO

DRAFT

		Beginning Balance	$3,777,460
		Adjustment to Beginning Balance	$930,000
		Adjusted Beginning Balance	$4,707,460
Total Tax Increment From PA(s)	$1,304,303	Total Receipts from PA(s)	$1,465,212
		Other Revenues not reported on Schedule A	$0
		Sum of Beginning Balance and Revenues	$6,172,672

Expenditure

Item	Subitem	Amount	Remark
Housing Construction			
		$97,839	
	Subtotal of Housing Construction	**$97,839**	
Other			
		$50,000	General Fund loan repayment for a loan that was provided by the General Fund for the purchase of the Downey Avenue property.
	Subtotal of Other	**$50,000**	
Planning and Administration Costs			
Administration Costs		$109,163	
	Subtotal of Planning and Administration Costs	**$109,163**	
Property Acquisition			
Land Purchases		$715,618	
Operation of Acquired Property		$1,270	
Other		$38,082	Includes $20,047 for Attorney Fees associated with Archway Commons, $710 Admin for

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Expenditure Item	Subitem	Amount	Remark
Property Acquisition			
			Archway Commons Property Agent, $11,137 for permit fees for Palm Valley rehab work, $4,958 for general housing activities, and $1,230 for general project development costs.
	Subtotal of Property Acquisition	**$754,970**	
SERAF loan			
		$422,167	
	Subtotal of SERAF loan	**$422,167**	
Subsidies from the LMIHF			
Rental Subsidies		$52,148	
	Subtotal of Subsidies from the LMIHF	**$52,148**	
	Total Expenditures	**$1,486,287**	
	Net Resources Available	**$4,686,385**	
	Indebtedness For Setasides Deferred	**$0**	

Other Housing Fund Assets			
Category	Amount		Remark
Total Other Housing Fund Assets			

Total Fund Equity **$4,686,385**

2005/2006	$946636			
2006/2007	$1060704	sum of 4 Previous Years' Tax Increment for 2009/2010	Prior Year Ending Unencumbered Balance	Excess Surplus for 2009/2010
2007/2008	$1162764			
2008/2009	$1245727	$4415831	$1,699,900	$0

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Sum of Current and 3 Previous Years' Tax Increments	$4,773,498
Adjusted Balance	$4,686,385
Excess Surplus for next year	$0
Net Resources Available	$4,686,385
Unencumbered Designated	$0
Unencumbered Undesignated	$4,686,385
Total Encumbrances	$0
Unencumbered Balance	$4,686,385
Unencumbered Balance Adjusted for Debt Proceeds	$0
Unencumbered Balance Adjusted for Land Sales	$0
Excess Surplus Expenditure Plan	No
Excess Surplus Plan Adoption Date	

Site Improvement Activities Benefiting Households

Income Level	Low	Very Low	Moderate	Total

Land Held for Future Development

Site Name	Num Of Acres	Zoning	Purchase Date	Estimated Start Date	Remark

Use of the Housing Fund to Assist Mortgagors

Income Adjustment Factors

Requirements Completed

Home $

Hope $

Non Housing Redevelopment Funds Usage

Resource Needs

LMIHF Deposits/Withdrawls

Document Name	Document Date	Custodian Name	Custodian Phone	Copy Source

Achievements

Description

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California Redevelopment Agencies-Fiscal Year 2009/2010
Project Area Contributions to Low and Moderate Income Housing Funds
Sch A Project Area Summary Report
MODESTO

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Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Amount Deferred	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
MODESTO PROJECT	$6,521,515	$1,304,303	$1,304,303	$0	$0	$1,304,303	20%	$0	$160,909	$1,465,212
Agency Totals:	$6,521,515	$1,304,303	$1,304,303	$0	$0	$1,304,303	20%	$0	$160,909	$1,465,212

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

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California Redevelopment Agencies- Fiscal Year 2009/2010
Project Area Contributions to Low and Moderate Income Housing Fund
Sch A Project Area Financial Information

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Agency	MODESTO
Address	1010 Tenth Street
	PO Box 642
	Modesto CA 95353

Project Area MODESTO PROJECT

Type: Inside Project Area Status: Active

Plan Adoption: 1983 Plan Expiration Year: 2032

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$6,521,515	$1,304,303	$1,304,303	$0	$0	$1,304,303	20%	$0

Repayment	$0
Category	
Interest Income	$31,413
Loan Repayments	$103,096
Other Revenue	$26,400
Total Additional Revenue	$160,909
Total Housing Fund Deposits for Project Area	$1,465,212

Agency Totals For All Project Areas:

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$6,521,515	$1,304,303	$1,304,303	$0	$0	$1,304,303	20%	$0

Total Additional Revenue from Project Areas:	$160,909
Total Deferral Repayments:	$0
Total Deposit to Housing Fund from Project Areas:	$1,465,212

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Project Area: **MODESTO PROJECT**

FUTURE UNIT CONSTRUCTION

Contract Name	Execution Date	Estimated Completion Date	Very Low	Low	Moderate	Total
17th and G Street	12/14/07	11/30/13	24	24	0	48
Archway Commons	08/12/07	11/30/13	0	38	38	76
Donwey Avenue	04/01/08	11/30/12	11	0	0	11

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Project Area Name: MODESTO PROJECT

Project Name: 17th and G Street
Address: 17th and G Street Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	48
Special Need Unit	Elderly	48

UNIT INVENTORY

Inclusionary		Unit		Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
New Construction									
Non-Agency	Rental	Elderly		24	24	0	0	0	48
			Unit Total	24	24	0	0	0	48

PROJECT FUNDING SOURCE

Funding Source	Amount
Federal Funds	$9,370,000
TCAC/State Award	$3,800,000

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Project Area Name: MODESTO PROJECT

Project Name: Archway Commons
Address: Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	4
Special Need Unit	Disabled (Physical)	4

UNIT INVENTORY

Inclusionary		Unit	Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
New Construction								
Non-Agency	Rental	Non-Elderly	0	38	38	0	0	76
		Unit Total	0	38	38	0	0	76

PROJECT FUNDING SOURCE

Funding Source	Amount
Redevelopment Funds	$6,749,000
Federal Funds	$1,000,000
State Funds	$1,000,000
Other Local Funds	$1,823,728
Private Funds	$2,660,000
Owner Equity	$981,803
TCAC/Federal Award	$9,194,947
TCAC/State Award	$9,194,948

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Project Area Name: MODESTO PROJECT

Project Name: Downey Avenue
Address: 416 and 412 Downey Avenue Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	11
Special Need Unit	Elderly	11

UNIT INVENTORY

Inclusionary		Unit		Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
New Construction									
Non-Agency	Rental	Elderly		11	0	0	0	0	11
			Unit Total	11	0	0	0	0	11

PROJECT FUNDING SOURCE

Funding Source	Amount
Federal Funds	$550,000
Other Local Funds	$252,000
Private Funds	$750,000

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SCHEDULE HCD E
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2009/2010

Agency: MODESTO

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I [H & SC Section 33413(b)(1)] **AGENCY DEVELOPED**	
1. New Units	**0**
2. Substantially Rehabilitated Units	**0**
3. Subtotal - Baseline of Units (add line 1 & 2)	**0**
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	**0**
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	**0**
PART II [H & SC Section 33413(b)(2)] **NON-AGENCY DEVELOPED UNITS**	
6. New Units	**135**
7. Substantially Rehabilitated Units	**0**
8. Subtotal - Baseline of Units (add lines 6 & 7)	**135**
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	**20**
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	**8**
PART III TOTALS	
11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	**20**
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	**8**

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SCHEDULE HCD E1
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2009/2010

Agency: MODESTO
Project Area: MODESTO PROJECT
Project: 17TH AND G STREET

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I
[H & SC Section 33413(b)(1)]
AGENCY DEVELOPED

1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0

PART II
[H & SC Section 33413(b)(2)]
NON-AGENCY DEVELOPED UNITS

6. New Units	48
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	48
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	7
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	3

PART III
TOTALS

11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	7
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	3

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SCHEDULE HCD E1
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

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Report Year: 2009/2010

Agency: MODESTO

Project Area: MODESTO PROJECT

Project: ARCHWAY COMMONS

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I [H & SC Section 33413(b)(1)] **AGENCY DEVELOPED**	
1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0
PART II [H & SC Section 33413(b)(2)] **NON-AGENCY DEVELOPED UNITS**	
6. New Units	76
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	76
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	11
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	4
PART III TOTALS	
11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	11
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	4

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SCHEDULE HCD E1

CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES

(This Form is Information Only; Actual Obligation is based on Implementation Plan)

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Report Year: 2009/2010

Agency: MODESTO

Project Area: MODESTO PROJECT

Project: DOWNEY AVENUE

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I
[H & SC Section 33413(b)(1)]
AGENCY DEVELOPED

1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0

PART II
[H & SC Section 33413(b)(2)]
NON-AGENCY DEVELOPED UNITS

6. New Units	11
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	11
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	2
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	1

PART III
TOTALS

11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	2
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	1

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