Appendix M – Modesto City Council Resolution 2006-508 (SB 1087 Resolution)

MODESTO CITY COUNCIL
RESOLUTION NO. 2006–508

A RESOLUTION APPROVING THE POLICY TITLED "WATER AND SEWER SERVICE POLICY REGARDING AFFORDABLE HOUSING DEVELOPMENT PURSUANT TO SECTION 65589.7 OF THE GOVERNMENT CODE" FOR IMPLEMENTATION OF SENATE BILL 1087 (SB 1087) REQUIREMENTS FOR WATER AND SEWER SERVICE

WHEREAS, California Government Code Section 65589.7 was amended in October 2005 by Senate Bill 1087 (SB 1087) to require each public agency or private entity providing water and sewer services to grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households, and

WHEREAS, public agencies or private entities providing water and sewer services must adopt written policies and procedures no later than July 1, 2006, and at least every five years thereafter, to implement the provisions of Section 65589.7, and

WHEREAS, Public Works staff prepared a draft policy for compliance with the requirements of Section 65589.7, and

WHEREAS, at its June 12, 2006, meeting, the Council Economic Development Committee reviewed the draft policy and directed staff to follow up on four areas of the draft policy, and

WHEREAS, staff followed up on the four areas addressed at the Committee meeting and revised the policy, and

WHEREAS, the revised policy attached hereto as Exhibit "A" outlines the steps necessary for implementation of SB 1087 Code requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Policy titled "Water And Sewer Service Policy Regarding Affordable Housing Development Pursuant To Section 65589.7 Of The Government Code" attached hereto as Exhibit "A" and incorporated herein by reference, for the Implementation of Senate Bill 1087 Requirements for Water and Sewer Service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Rebecca Redin
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

WATER AND SEWER SERVICE POLICY REGARDING AFFORDABLE HOUSING DEVELOPMENT PURSUANT TO SECTION 65589.7 OF THE GOVERNMENT CODE

PURPOSE: In order to clarify its position regarding the provision of water and sewer service to proposed developments within all of the City of Modesto's water and sewer service areas that include housing units affordable to lower income households within the City's water and sewer service areas, Council has adopted a policy statement in accordance with Section 65589.7 of the Government Code.

BACKGROUND: Section 65589.7 of the Government Code was amended in October 2005 to require that each public agency or private entity providing water and sewer services grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households. Furthermore, public agencies or private entities providing water and sewer services must adopt written polices and procedures no later than July 1, 2006, and at least every five years thereafter, to implement the provisions of Section 65589.7.

Within the City of Modesto's water and sewer service areas a proposed development can be defined as including affordable housing by providing any of the following information:

1) Projects with housing that will be sold or rented to households with less than 80 percent of median income.
2) Affordability covenants that are recorded with the property.
3) Market rate apartments built at a minimum density of 15 units per net acre.
4) Other specific types of housing that, by their nature, are considered to satisfy affordable housing, such as emergency shelters, homes used for transitional housing, second units, mobile homes, boarding houses, farm labor housing, single-room occupancy units, or density bonus units.
5) Housing units that qualify for the City of Modesto's Capital Facility Fee waivers.

For proposed developments within the City of Modesto's water and sewer service areas (but outside the City limits), the City may review and consider the requirements set forth in the adopted housing elements of those jurisdictions to determine whether the project may be entitled to a priority consistent with this policy.

POLICY: It is the policy of the City of Modesto that proposed development within all of the City's water and sewer service areas shall be granted a priority for water and sewer service provided that at least ten percent of the total housing units in the proposed development are affordable to lower income households, that their affordability will be determined by HUD standards of affordability, that covenants be recorded over the property to ensure affordability, and that the findings are made per the implementation procedures outlined in the "Implementation" section. The proposed developments shall be within the current limits of a city or county areas that are served by the City of Modesto (defined service areas).

IMPLEMENTATION FINDINGS: Proposed development within the City's water and sewer service areas that include housing units affordable to lower income households shall be granted a priority for water and sewer service provided that the following specific written findings are made:

Water Service:

1) That the City of Modesto's water supply system is not experiencing a water shortage emergency, or under the water shortage restrictions pursuant to Chapter 3 (commencing with Section 350) of Division 1 of the Water Code relating to water emergencies.
2) That the City of Modesto's water supply system is not subject to a compliance order issued by the State Department of Health Services that prohibits new water service connections.
3) That sufficient water supplies are available to serve the proposed development as identified in the City of Modesto's most recently adopted Urban Water Management Plan.
4) That the City of Modesto's water supply system has sufficient water treatment, transmission, and distribution capacity to serve the needs of the proposed development as demonstrated by a written engineering analysis and report.

Sewer Service:

5) That the City of Modesto has sufficient wastewater collection and treatment system capacity to serve the needs of the proposed development as demonstrated by a written engineering analysis and report.
6) That the City of Modesto is not under an order by the Central Valley Regional Water Quality Control Board that prohibits new sewer service connections.

In addition to the above requirements, the following items are specific conditions on the proposed developments:

7) That, based on the size and location of the project, the applicant agrees to finance any additional water and sewer capacity studies determined necessary by the City of Modesto.
8) That the project applicant has agreed to comply with all reasonable terms, conditions, and standards of the City of Modesto relating to the provision of water and sewer services applicable to development projects, as identified in the written analysis reports.
9) That the project applicant has agreed to comply with all local, state, and federal laws and regulations relating to the provision of water and sewer services applicable to development projects.
10) That the project applicant has agreed to pay all fees and charges relating to the provision of water and sewer services for development projects.

Findings for sewer service do not apply to areas outside the City of Modesto where the City of Modesto only provides water service. Similarly, findings for water service do not apply to areas outside the City of Modesto where only sewer service is provided.

IMPLEMENTATION: The City Public Works and Community and Economic Development Departments shall institute an implementation program wherein projects with housing affordable to lower income households per HUD standards are given processing priority over projects not containing such affordable housing.