

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works *mm*

BOARD AGENDA # *B-6

Urgent

Routine

AGENDA DATE December 7, 2010

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Memorandum of Understanding (MOU) with the City of Modesto for the Annexation of the Jennings Road Wastewater Treatment Plant Facility

STAFF RECOMMENDATIONS:

1. Approve the Memorandum of Understanding (MOU) between the City of Modesto and Stanislaus County for the Annexation of the Jennings Road Wastewater Treatment Plant Facility.
2. Authorize the Chief Executive Officer to sign the Memorandum of Understanding between the City of Modesto and Stanislaus County for the Jennings Road Wastewater Treatment Plant Facility.

FISCAL IMPACT:

Following the annexation to the City of Modesto of the area of the Jennings Road Wastewater Treatment Plant Facility, the City will no longer be required to pay County property tax assessments. Based on 2009 tax figures, the property taxes for the property were \$101,000. The Memorandum of Understanding will require the City of Modesto to annex and maintain a 2.8 mile section of Jennings Road from North Main Street to the north property line of city-owned property near the Westport Drain Channel.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2010-739

On motion of Supervisor O'Brien Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of a Memorandum of Understanding (MOU) with the City of Modesto for the Annexation of the Jennings Road Wastewater Treatment Plant Facility

It is estimated that the road maintenance savings to Stanislaus County Public Works would be \$15,000 per mile for Jennings Road, or \$42,000 annually. County Public Works will continue to maintain the section of West Main Street that passes over the annexed area at a cost of approximately \$17,000 annually.

DISCUSSION:

The City of Modesto desires to annex 4,690 acres that include the wastewater treatment plant on Jennings Road. In discussions between staff from the City of Modesto and Stanislaus County areas of interest to both parties were identified. Staff from both agencies were involved in the preparation of the presented Memorandum of Understanding.

The Memorandum of Understanding (MOU) between the City of Modesto and Stanislaus County covers the following items:

City of Modesto:

- The City shall cooperate and participate in transportation studies for the South County Corridor. It is anticipated that the South County Corridor might traverse the Jennings Treatment Plant.
- The City shall grant the County an Irrevocable Offer of Dedication for 20-feet of right-of-way of West Main as it passes through the annexed area. This section of roadway is 1.77 miles in length. The existing right-of-way width of West Main east of Jennings Road is 90 feet. West Main is anticipated to be constructed as a four-lane Class "C" expressway with a right-of-way width of 110 feet. The Irrevocable Offer of Dedication will bring the right-of-way width of Main Street into conformance with Stanislaus County's General Plan Circulation Element.
- The City shall annex and maintain Jennings Road from West Main Street to the north property line of the city owned property near the Westport Drain Channel. Jennings Road will be maintained according to Stanislaus County Standards with City funds. The maintenance will be performed on a schedule similar to Stanislaus County road maintenance.
- All work completed in the West Main Street right-of-way for the installation of a future recycled water line, shall be placed in accordance with Stanislaus County Standards in place at the time the work is started.

Stanislaus County:

- 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.

Approval of a Memorandum of Understanding (MOU) with the City of Modesto for the Annexation of the Jennings Road Wastewater Treatment Plant Facility

- West Main Street will remain part of the County right-of-way after the annexation. The County shall continue to be fully responsible for all work related to the operation, maintenance, repair, and improvements to the section of West Main Street that passes over the annexed area.
- Stanislaus 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. As part of the City's plan to deliver recycled wastewater from the Jennings Treatment Plant to farmers on the west side of the County, City Public Works staff anticipates the need for a water line crossing the San Joaquin River and extending westward. This section of the MOU allows the City to locate a future water line on the West Main Bridge spanning the San Joaquin River. For clarification, the County will not charge a fee for occupying space within right-of-way. The City will cover all construction, review and inspection fees and costs associated with a future water line.

The City Council approved the Memorandum of Understanding on August 3, 2010.

POLICY ISSUES:

This action is consistent with the Board's priorities of Effective Partnerships, Efficient Delivery of Public Services, and A Well Planned Infrastructure System by formalizing the agreement between Stanislaus County and the City of Modesto for the Annexation of the Jennings Road Wastewater Treatment Plant Facility.

STAFFING IMPACT:

Public Works staff has been involved in the formation of the contents of the Memorandum of Understanding with the City of Modesto over the annexation of the Jennings Road Wastewater Treatment Plant Facility.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: 209-525-4130.

**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 August 4, 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 accommodate 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

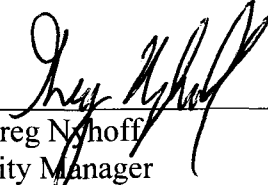
7. Counterparts: This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one Agreement.

In WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written above.

COUNTY OF STANISLAUS

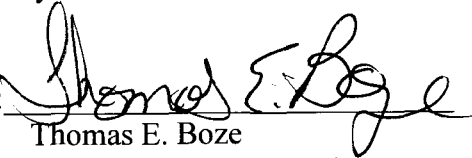

Richard Robinson
Chief Executive Officer

CITY OF MODESTO


Greg Nyhoff
City Manager

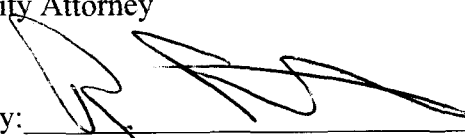
APPROVED AS TO FORM:

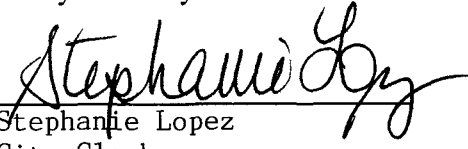
John P. Doering
County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

APPROVED AS TO FORM:

Susana Alcala Wood
City Attorney

By: 
Roland R. Stevens
Assistant City Attorney

ATTEST: 
Stephanie Lopez
City Clerk
Resolution 2010-347

**JENNINGS ROAD ANNEXATION
LEGAL DESCRIPTION**

All that certain property situate, lying, and being portions of Sections 14, 15, 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:

COMMENCING at the northeast corner of said Section 23, being a point on the centerline of a County Road thence, along the east line of said Section 23, South 00°26'51" West 55.00 feet to the **POINT OF BEGINNING** of this description said point is located on the proposed south right-of-way of West Main; thence the following ten (10) courses:

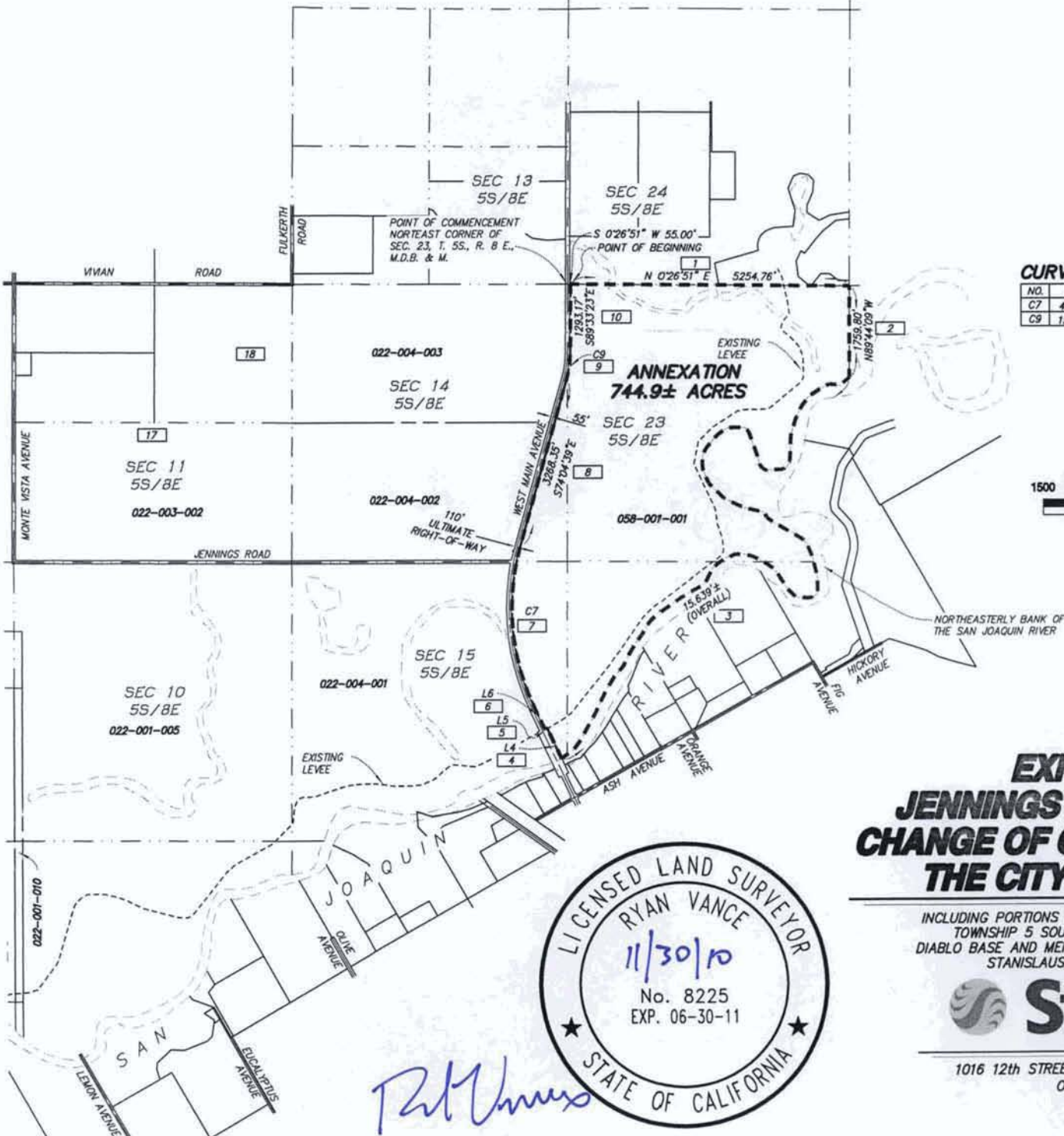
- 1) South 00°26'51" West 5254.76 feet, along the said east line of said Section 23, to the southeast corner of said Section 23; thence
- 2) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence
- 3) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 15639 feet, more or less; thence to the intersection with the existing south right-of-way of existing 200 foot wide West Main; thence
- 4) North 64°47'02" East 644.01 feet; thence
- 5) North 25°12'58" West 45.00 feet, to a point on the proposed southerly right-of-way line of the ultimate 110 foot wide West Main; thence, continuing along said southerly right-of-way line
- 6) North 64°47'02" East 434.01 feet to the beginning of a curve to the right, having a radius of 4444.57 feet, a central angle of 41°08'19" and a chord bearing and distance of North 85°21'11" East 3123.11 feet;
- 7) thence, along the arc of said curve, 3191.22 feet; thence,
- 8) South 74°04'39" East 3268.35 feet to the beginning of a curve to the left, having a radius of 2057.64 feet, a central angle of 15°28'44" and a chord bearing and distance of South 81°49'01" East 554.20 feet;
- 9) thence, along the arc of said curve, 555.89 feet; thence,
- 10) South 89°33'23" East 1293.17 feet to the point of beginning.

Containing a total of 744.9 acres, more or less.

Subject to covenants, conditions, restrictions, reservations,
rights, rights-of-way, and easements of record.



Ryan Vance



LINE TABLE

LINE	BEARING	DISTANCE
L4	N64°47'02"E	644.01'
L5	N25°12'58"W	45.00'
L6	N64°47'02"E	434.01'

CURVE TABLE

NO.	DELTA	RADIUS	LENGTH	CHORD	CH BEARING
C7	41°08'19"	4444.57'	3191.22'	3123.11'	S85°21'11"W
C9	15°28'44"	2057.64'	555.89'	554.20'	S81°49'01"E

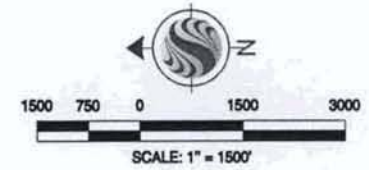


EXHIBIT "B"
JENNINGS ADDITION NO. 2
CHANGE OF ORGANIZATION TO
THE CITY OF MODESTO

INCLUDING PORTIONS OF SECTIONS 14, 15, 22 AND 23,
 TOWNSHIP 5 SOUTH, RANGE 8 EAST, MOUNT
 DIABLO BASE AND MERIDIAN, LYING IN THE COUNTY OF
 STANISLAUS, STATE OF CALIFORNIA.



1016 12th STREET MODESTO, CALIFORNIA
 OCTOBER, 2010



Pat Vance

JENNINGS ROAD ANNEXATION

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, 34 and 35, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15 and 16, 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 nine (29) 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 recorded as Instrument Number 24967, Stanislaus County Records; 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 1290.92 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, thence
- 13) South 19°22'32" West 78.54 feet to the beginning of a curve to the left, having a radius of 980.00 feet, a central angle of 18°56'00" and a chord bearing and distance of South 09°54'32" West 322.37 feet;
- 14) thence, continuing along the east right-of-way line of Jennings Road and along the arc of said curve, 323.84 feet; thence
- 15) South 00°26'32" West 2294.23 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
- 16) 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
- 17) 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
- 18) 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 $\frac{1}{4}$ section line of said Section 11; thence
- 19) South 00°27'47" West 5317.77 feet, along said north-south $\frac{1}{4}$ section line, and northerly extension thereof, to the south $\frac{1}{4}$ corner of said Section 11; thence
- 20) 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
- 21) 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 $\frac{1}{4}$ corner of said Section 14; thence
- 22) South 00°08'00" West 2587.52 feet, along the east line of said Section 14 to the proposed northerly right-of-way line of ultimate 110 feet wide West Main; thence
- 23) 55 feet north of and parallel with the centerline of said Road, South 89°33'23" West 1292.87 feet to the beginning of a curve to the right, having a radius of 1947.64 feet, a

- central angle of 15°28'44" and a chord bearing and distance of North 81°49'01" West 524.57 feet;
- 24) thence, along the arc of said curve, 526.17 feet; thence
 - 25) North 74°04'39" West 3268.35 feet to the beginning of a curve to the left, having a radius of 4554.57 feet, a central angle of 41°08'19" and a chord bearing and distance of South 85°21'11" West 3200.41 feet;
 - 26) thence, along the arc of said curve, 3270.20 feet; thence
 - 27) South 64°47'02" West 434.01 feet; thence
 - 28) North 25°12'58" West 45.00 feet; thence, South 64°47'02" West 650.92 feet to the northeasterly bank of the aforementioned San Joaquin River; thence
 - 29) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 24437 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 3,919.6 acres, more or less.

Subject to covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record.



Ryan Vance

EXHIBIT "B"

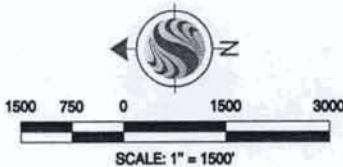
JENNINGS ADDITION NO. 2

CHANGE OF ORGANIZATION TO THE CITY OF MODESTO

INCLUDING PORTIONS OF SECTIONS 32, 33, 34 AND 35, TOWNSHIP 4 SOUTH, RANGE 8 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND PORTIONS OF SECTIONS 2, 3, 4, 5, 9, 10, 11, 14, 15 AND 16, TOWNSHIP 5 SOUTH, RANGE 8 EAST, MOUNT DIABLO BASE AND MERIDIAN, LYING IN THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.



1016 12th STREET MODESTO, CALIFORNIA
OCTOBER, 2010



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 89°59'19" E	120.00'
L2	N 31°17'15" E	2196.48'
L3	S 57°40'55" E	583.69'
L4	N 47°46'05" E	175.78'
L5	S 81°49'46" E	965.70'
L6	N 77°00'15" E	1979.94'
L7	S 52°48'45" E	1635.36'
L8	N 84°06'15" E	1220.77'
L9	S 46°52'45" E	1616.86'
L11	S 80°03'55" E	300.00'
L16	S 90°00'00" W	20.00'
L27	S 64°47'02" W	434.01'
L28	N 25°12'58" W	45.00'
L29	S 64°47'02" W	650.92'

CURVE TABLE

NO.	DELTA	RADIUS	LENGTH	CHORD	CH BEARING
C14	18°36'00"	980.00'	323.84'	322.37'	S09°54'32"W
C24	15°28'44"	1947.64'	526.17'	524.57'	S81°49'01"E
C26	41°08'19"	4554.57'	3270.20'	3200.41'	S85°21'11"W

POINT OF BEGINNING INTERSECTION OF THE NORTHEASTERLY BANK OF THE SAN JOAQUIN RIVER AND NORTH LINE OF SEC. 5, T. 5S., R. 8 E., M.D.B. & M.

