



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Memorandum of Understanding between City of Lodi and General Mills Cereals Properties, Inc., for Dedication of Easements for Widening of Lower Sacramento Road (Turner Road to Union Pacific Railroad)

MEETING DATE: November 7, 2007

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute the Memorandum of Understanding between the City of Lodi and General Mills Cereals Properties, Inc., for the dedication of street easement, construction easement, and right of entry for widening of Lower Sacramento Road (Turner Road to Union Pacific Railroad).

BACKGROUND INFORMATION: At the December 20, 2006 City Council meeting, staff was authorized to negotiate with General Mills for the acquisition of street easement, construction easement, and right of entry for the widening of Lower Sacramento Road between Turner Road and the Union Pacific Railroad spur line crossing. In addition, negotiations included the acquisition of easements for the reconfiguration of traffic signal equipment at the intersection of Turner Road and Lower Sacramento Road.

The agreements reached between General Mills and the City of Lodi are presented in the Memorandum of Understanding, General Mills Cereals Properties, LLC, Lower Sacramento Road Widening Project, Turner Road Reconstruction Project that is provided as Exhibit A. The improvements covered by the Memorandum of Understanding are presented in Exhibit B.

Construction of the project is in process. General Mills has executed the various documents. Council is requested to authorize the City Manager to execute the documents on behalf of the City.

FISCAL IMPACT: No funds are being exchanged; the City will be receiving land and other rights in exchange for installing improvements.

FUNDING AVAILABLE: Not Applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer/Deputy Public Works Director
RCP/FWS/pmf
Attachments

APPROVED: _____
Blair King, City Manager

MEMORANDUM OF UNDERSTANDING
 GENERAL MILLS CEREALS PROPERTIES, LLC
 LOWER SACRAMENTO ROAD WIDENING PROJECT
 TURNER ROAD RECONSTRUCTION PROJECT

THIS Memorandum of Understanding ("MOU") is entered into this _____ day of _____, 2007, (the "Effective Date"), between GENERAL MILLS CEREALS PROPERTIES, LLC, a Delaware limited liability company ("General Mills") and the CITY OF LODI, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

This MOU is predicated upon the following findings:

- A. The City will construct improvements generally consisting of widening Lower Sacramento Road from Turner Road northerly to the City limits, reconfiguring the intersection lanes at the Lower Sacramento Road/Turner Road intersection, rehabilitating the asphalt road surface on Turner Road from Loma Drive westerly to the Lower Sacramento Road/Turner Road/Woodhaven Lane intersection, constructing/reconstructing concrete curb, gutter and sidewalk associated with the widening, and relocate/replace traffic signal equipment, all as more particularly described in Paragraph 1 below.
- B. Substantial movement of goods into and out of the plant occurs via truck and trailer units. The driveway entrance at the intersection of Lower Sacramento Road and Turner Road provides the principal access for these units.
- C. The Lower Sacramento Road Special Purpose Plan of 1997 provided for the widening of Lower Sacramento Road north of Turner Road and for the addition of dual southbound left turn lanes at the intersection with Turner Road.
- D. To improve operations and safety conditions at the intersection, it is required that certain modification be made to the General Mills driveway entrance at the intersection of Lower Sacramento Road and Turner Road.
- E. To widen Lower Sacramento Road, the City requires the acquisition of street easement approximately 20-foot in width along the length of two parcels of real property owned by General Mills, specifically described as Assessor Parcel Number 015-230-40 located at 1018 Lower Sacramento Road and Assessor Parcel Number 015-230-31 located at 2201 West Turner Road. A triangular piece of street easement is required at the intersection to relocate the traffic signal facilities.

NOW THEREFORE, the parties to this MOU agree as follows:

- 1. The City will perform, at its sole cost and expense, all of the work that is described in this Paragraph 1 (such work being collectively referred to as the "Project") on or before June 30, 2008. Execution of this Agreement constitutes

approval of the Project by both parties, subject to final verification of the second phase of the Project, as provided in paragraph 1.d below.

a. The Project will be constructed in two phases, as described in this Paragraph 1.

b. The first phase will consist of the following:

(i) The widening of Lower Sacramento Road by approximately 20 feet on the east side.

(ii) Removal of the existing chain link fence and gate, and installation of a new chain link fence and gate (both with plastic slats) at a position parallel to and one-half foot east of the new right of way along Lower Sacramento Road.

(iii) Reconstructing the drive entrance to the General Mills maintenance facility to allow trucks to turn in. The drive entrance will consist of a concrete driveway and 20-foot by 40-foot chain link fence refuge to allow vehicles to enter and exit from Lower Sacramento Road. Vehicles exiting the facility will be allowed to turn right or left. Southbound vehicles will be allowed to enter the driveway by turning left. Northbound vehicles will be allowed to enter by making a right turn into the driveway.

(iv) Relocation of the traffic signal facilities at the northeast corner of Lower Sacramento Road and Turner Road to accommodate the installation of a larger radius return at that corner.

(v) Removal of the abandoned rail crossing protection facilities on Turner Road. The private rail crossing on Turner Road (DE-105.61C) will be dismantled, removed and disposed of by the City including the cantilever signal supports, the automatic gate facilities, rails, and ties. In addition, the sidewalk and pavement will be demolished and replaced at the same location. Removal of rail facilities on General Mills site will not occur.

(vi) Removal and disposal of the westerly row of Cypress trees (approximately 70 in number) along Lower Sacramento Road. The stumps will be ground or removed. A temporary chain link security fence will be installed.

c. During construction of the first phase, traffic control signage and flagmen will be provided to ensure access to the General Mills Main Entrance will be reasonably provided. There may be instances when short delays will be required to ensure the safety of the workers and public.

d. The second phase will consist of (i) increasing the curb radius at the southwest driveway return of the General Mills Main Entrance on Turner Road, (ii) relocating the traffic signal facilities at the same location, (iii) relocating (as required) the General Mills sign at the same location, (iv) modifying the landscape and irrigation to respect the improvements at this location, and (v) modifications to the vehicle detection facilities in the driveway as required for traffic signal operations. The precise details of the

second phase of work will be submitted to General Mills for approval prior to beginning work. City will cause the second phase work to be completed no later than June 30, 2008.

2. General Mills will grant the City a street easement over the area required for the widening by execution of the Street Easement Deed provided as Attachment A. In addition, General Mills will grant to the City a right of entry and temporary construction easement for the duration of the Project by execution of the Right of Entry and Temporary Construction Easement document provided as Attachment B that will terminate upon City Council acceptance of the improvements.
3. The City will construct the widening improvement described in paragraph 1.b(i) prior to relocating the traffic signal facilities as described in paragraph 1(b)(iv). The phasing is driven by the long lead order time for the traffic signal equipment.
4. The City will require its contractor performing the Project work to provide a Traffic Control Plan that ensures continuous access for delivery and employee vehicles to the General Mills facility and maintenance shed at all times during the Project.
5. General Mills will not be required to reimburse the City for any of the Project work. The City will not be required to compensate General Mills for the street easement described in paragraph 2 or the delays described in paragraph 1.c.
6. Relationship of Parties:
 - a. It is understood that the relationship between the parties is an MOU relationship between the City and General Mills and nothing herein shall be construed to the contrary.
 - b. The parties agree that nothing contained herein, or in any document executed in connection herewith, shall be construed as making the parties joint venturers or partners.
 - c. This MOU is made and entered into for the sole protection and benefit of the parties and their successors and assigns.
7. All notices required or provided for under this MOU shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested. Notice shall be effective on the date it is delivered in person or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below:

Notice to City: City of Lodi
City Manager
221 West Pine Street
Lodi, CA 95240

Notice to General Mills: General Mills Cereals Properties, LLC
One General Mills Boulevard, N02-B
Minneapolis, MN 55440
Attn: Cindy Monturiol

IN WITNESS WHEREOF this MOU has been executed by the parties on the day and year first above written.

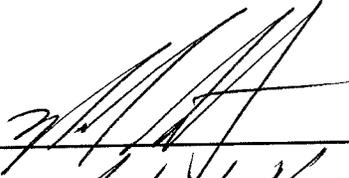
Signature page follows.

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
GENERAL MILLS CEREALS PROPERTIES, LLC
LOWER SACRAMENTO ROAD WIDENING PROJECT
TURNER ROAD RECONSTRUCTION PROJECT

CITY OF LODI, a municipal corporation

GENERAL MILLS CEREALS PROPERTIES, LLC
a Delaware ~~corporation~~ *limited liability company*

BLAIR KING
City Manager



By: *Michael Nordstrom*
Title: *V.P.*

ATTEST:

RANDI JOHL
City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER
City Attorney

WHEN RECORDED MAIL TAX
STATEMENT AND RECORDED
DOCUMENT TO

CITY CLERK
CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 015-230-50
1100 North Lower Sacramento Road

STREET EASEMENT DEED

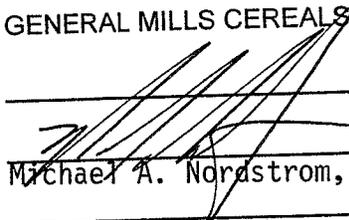
GENERAL MILLS CEREALS PROPERTIES, LLC

hereby GRANT to the CITY OF LODI, a municipal corporation, in dedication to the public use, an easement for the purposes of public travel and access and the right to construct, maintain, repair, replace, remove and operate lines for public utilities, both publicly and privately owned, together with the right to enter upon the land herein described to the extent that such entry may be necessary for the construction, maintaining, repairing, replacing, removing and operating said access, lines or appurtenances thereto, in over, under and across the real property, insofar as our title extends, situated in the City of Lodi, County of San Joaquin, State of California, and particularly described as follows:

(SEE LEGAL DESCRIPTION ATTACHED)

Dated: September 7, 2007

GENERAL MILLS CEREALS PROPERTIES, LLC



Michael A. Nordstrom, Vice President

This document MUST be notarized. Please attach proper notarial acknowledgment.

Description approved:

Date:



9/19/07

STREET EASEMENT DESCRIPTION

EXHIBIT A

A roadway dedication being a portion of the Southeast Quarter of Section 34, Township 4 North, Range 6 East, Mount Diablo Base and Meridian, City of Lodi, San Joaquin County, California, being more particularly described as follows:

Commencing at the Southwest corner of the Southeast quarter of Section 34 as shown in Record of surveys, Volume 15, Page 186, san Joaquin County Records,

Thence due East 1220.20 feet along the South line of Section 34 and the centerline of Turner Road to the centerline of Lower Sacramento Road,

Thence North 7° 12' East 29.74 feet along said Lower Sacramento Road centerline,

Thence South 82° 48' East 20.00 feet perpendicular to said Lower Sacramento Road centerline,

Thence North 7° 12' East 42.73 feet to the Northwest corner of that certain parcel of land recorded February 20, 1987, as Instrument Number 87015743, San Joaquin County Records, thus being the TRUE POINT OF BEGINNING,

Thence North 7° 12' East 834.50 feet to the Southwest corner of that certain parcel of land recorded November 15, 2004, as Document Number 2004-259893, San Joaquin County Records,

Thence South 82° 48' East 20.00 perpendicular to the centerline of Lower Sacramento Road along the southerly line of said parcel as described in Document Number 2004-259893,

Thence South 7° 12' West 718.62 feet parallel to said centerline of Lower Sacramento Road,

Thence South 0° 13' 15" East 99.20 feet,

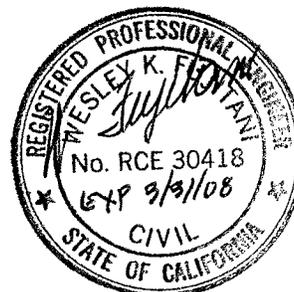
Thence South 45° 11' 58" East 60.54 feet to a point on the North line of Turner Road, said North line being 40 feet northerly and parallel with the south line of Section 34,

Thence North 89° 58' 47" West 34.16 feet along said north line of Turner Road to angle point of said parcel of land recorded February 20, 1987 as Instrument Number 87015743,

Thence North 41° 24' West 35.84 feet along said parcel of land recorded February 20, 1987 as Instrument Number 87015743,

Thence North 82° 48' West 20.00 perpendicular to the centerline of Lower Sacramento Road to the TRUE POINT OF BEGINNING.

Said parcel contains .43 Acres more or less.



STATE OF Minnesota

COUNTY OF Hennepin

On September 7, 2007, before me, Cynthia C. Monturiol
Notary Public, personally appeared Michael A Nordstrom, vice-president
General Mills Cereals properties, LLC.

[personally known to me] [~~proved to me on the basis of satisfactory evidence~~] to be the person
whose name is subscribed to the within instrument, and acknowledged to me that she executed
the same in her authorized capacities, and that by her signature on the instrument the person,
or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand:

Cynthia C. Monturiol

Notary Public in and for the Above-Mentioned
State and County



My commission expires: _____



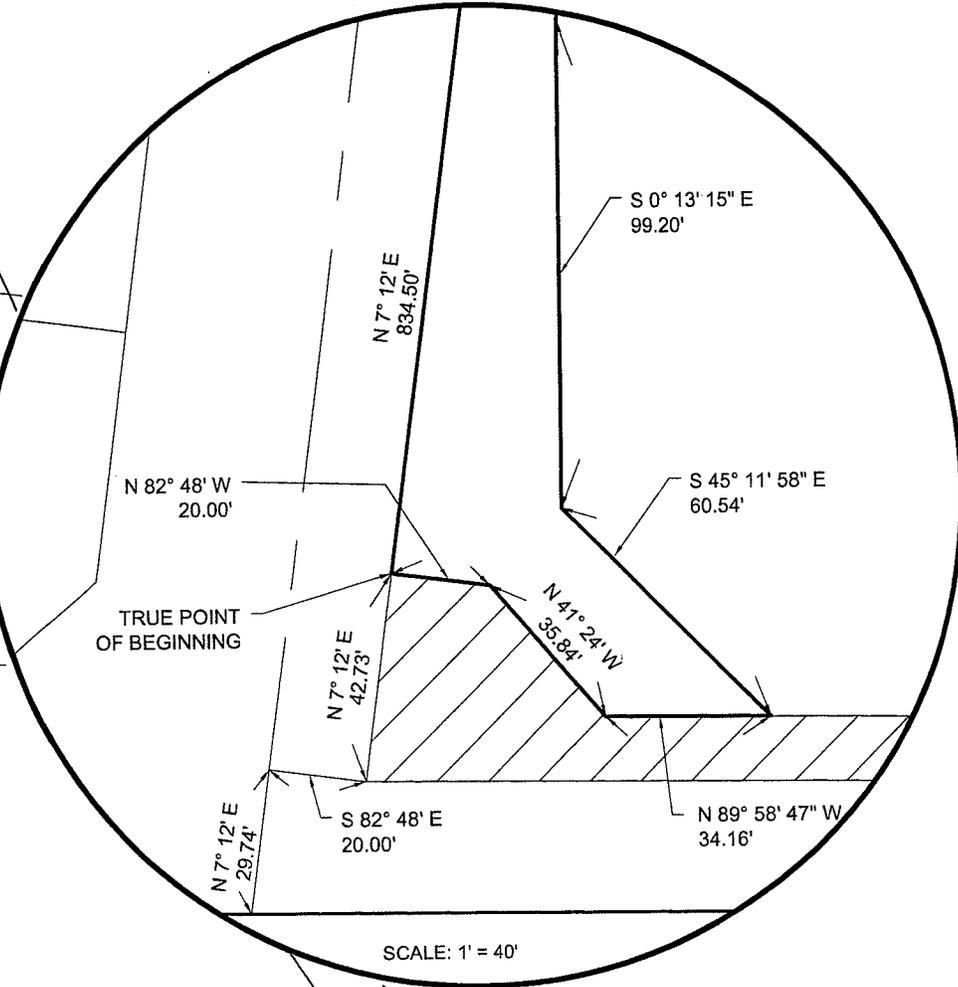
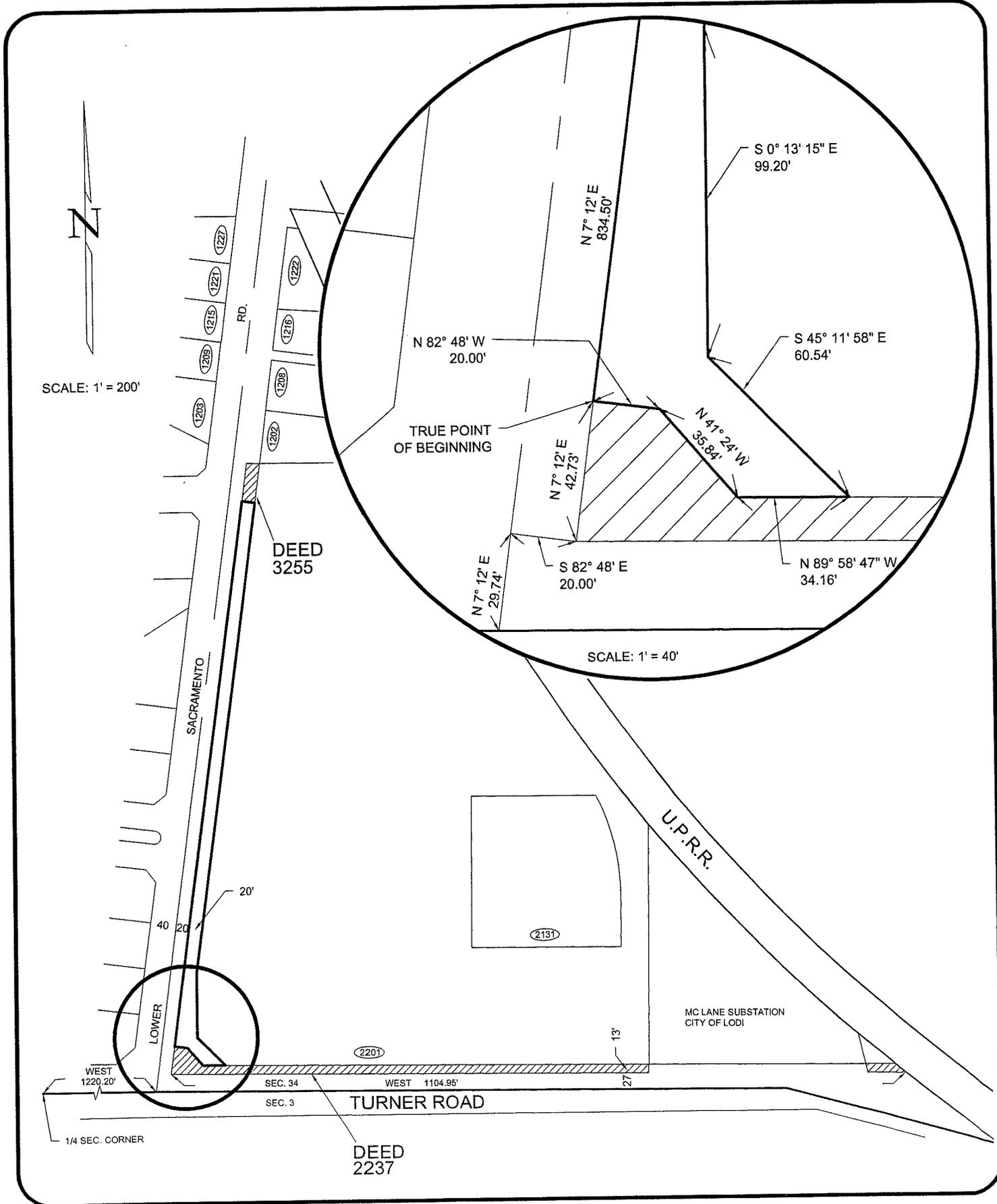
CITY OF LODI

PUBLIC WORKS DEPARTMENT

STREET EASEMENT DESCRIPTION

2201 W. TURNER RD.

LODI, CALIFORNIA



DEED 2237

MC LANE SUBSTATION
CITY OF LODI

CITY COUNCIL
BOB JOHNSON, Mayor
JOANNE MOUNCE,
Mayor Pro Tempore
LARRY D. HANSEN
SUSAN HITCHCOCK
PHIL KATZAKIAN

CITY OF LODI

PUBLIC WORKS DEPARTMENT
CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
TELEPHONE (209) 333-6706 / FAX (209) 333-6710
EMAIL pwdept@lodi.gov
<http://www.lodi.gov>

Attachment B

BLAIR KING,
City Manager

RANDI JOHL,
City Clerk

D. STEPHEN SCHWABAUER,
City Attorney

RICHARD C. PRIMA, JR.,
Public Works Director

August 20, 2007

Cindy Monturiol
General Mills, Inc.
Number One General Mills Blvd.
Minneapolis, MN 55426

SUBJECT: Right of Entry and Temporary Construction Easement
Lower Sacramento Road Widening and Turner Road Overlay Project

The City of Lodi needs to acquire approximately 18,500 square feet of property located at 1018 Lower Sacramento Road (APN 015-230-40) and 2201 West Turner Road (015-230-31) for the subject project. As you know, this project is important to the community of Lodi and north San Joaquin County. We are diligently working to get the project underway. We have prepared this right of entry and temporary construction easement document that grants the City and its contractor permission to enter the project area of your property for construction purposes. This document will ensure this project is not delayed while we finalize the property agreements with you.

City shall indemnify and defend the property owner for any liabilities incurred by property owner as a result of City's improvement project.

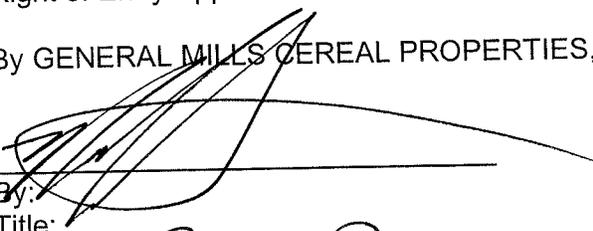
If you have any questions, please feel free to contact our project coordinator, Mark Lindseth, at (209) 333-6800, ext. 2666, or our Deputy City Attorney, Janice Magdich, at (209) 333-2600.

Sincerely,

Blair King
City Manager

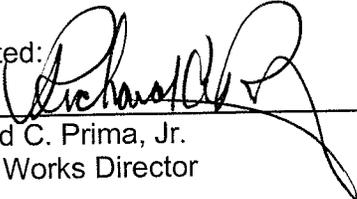
Right of Entry Approval:

By GENERAL MILLS CEREAL PROPERTIES, LLC

By: 

Title:

Accepted:

By 
Richard C. Prima, Jr.
Public Works Director

Approval as to Form:

By _____
D. Stephen Schwabauer
City Attorney

Enclosure

cc: Deputy City Attorney
Associate Civil Engineer



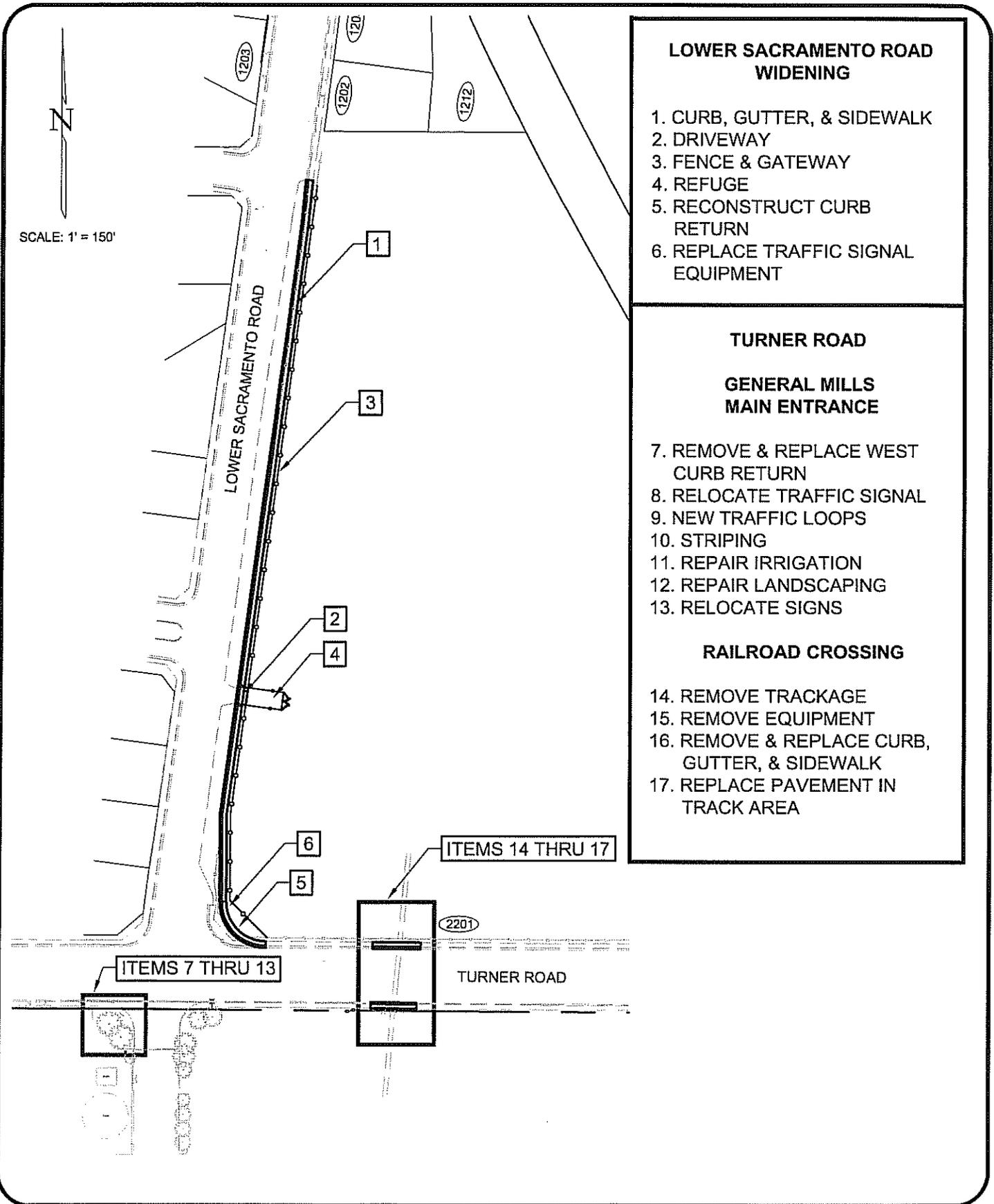
CITY OF LODI

PUBLIC WORKS DEPARTMENT

EXHIBIT B

TURNER ROAD / LWR. SAC. ROAD

IMPROVEMENTS



LOWER SACRAMENTO ROAD WIDENING

1. CURB, GUTTER, & SIDEWALK
2. DRIVEWAY
3. FENCE & GATEWAY
4. REFUGE
5. RECONSTRUCT CURB RETURN
6. REPLACE TRAFFIC SIGNAL EQUIPMENT

TURNER ROAD

GENERAL MILLS MAIN ENTRANCE

7. REMOVE & REPLACE WEST CURB RETURN
8. RELOCATE TRAFFIC SIGNAL
9. NEW TRAFFIC LOOPS
10. STRIPING
11. REPAIR IRRIGATION
12. REPAIR LANDSCAPING
13. RELOCATE SIGNS

RAILROAD CROSSING

14. REMOVE TRACKAGE
15. REMOVE EQUIPMENT
16. REMOVE & REPLACE CURB, GUTTER, & SIDEWALK
17. REPLACE PAVEMENT IN TRACK AREA

RESOLUTION NO. 2007-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
CITY OF LODI AND GENERAL MILLS CEREALS
PROPERTIES, INC., FOR DEDICATION OF STREET
EASEMENT, CONSTRUCTION EASEMENT, AND RIGHT OF
ENTRY FOR WIDENING OF LOWER SACRAMENTO ROAD

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby approves the Memorandum of Understanding (MOU) between the City of Lodi and General Mills Cereals Properties, Inc., for dedication of street easement, construction easement, and right of entry for the widening of Lower Sacramento Road from Turner Road to the Union Pacific Railroad spur line crossing; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute this Memorandum of Understanding on behalf of the City of Lodi.

Dated: November 7, 2007

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I hereby certify that Resolution No. 2007-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 7, 2007, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES: COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk