



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: March 2, 2011

Time: Closed Session 5:30 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Randi Johl, City Clerk
Telephone: (209) 333-6702

6:55 p.m. Invocation/Call to Civic Responsibility. Invocations may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. Invocations are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Invocation Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Presentations – None

C. Consent Calendar (Reading; Comments by the Public; Council Action)

- C-1 Receive Register of Claims in the Amount of \$2,531,625.87 (FIN)
- C-2 Approve Minutes (CLK)
a) February 15, 2011 (Shirtsleeve Session)
b) February 22, 2011 (Shirtsleeve Session)
- C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for 2011 Streets Crack Sealing Contract (PW)
- C-4 Approve Specifications and Authorize Advertisement for Bids for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2011/12 (PW)
- C-5 Approve Specifications and Authorize Advertisement for Bids for Tree Trimming for Fiscal Year 2011/12 (PW)
- C-6 Approve Specifications and Authorize Advertisement for Bids for Curb, Gutter, and Sidewalk Replacement Annual Contract for Fiscal Year 2011/12 (PW)

- C-7 Approve Specifications and Authorize Advertisement for Bids for 100,000 Feet of Insulated Underground Cable (EUD)
- Res. C-8 Adopt Resolution Authorizing the City Manager to Execute Contract for Municipal Service Center Shop Decommissioning Project with Diede Construction, of Woodbridge (\$44,675), and Appropriating Funds (\$5,000) (PW)
- C-9 Authorize the City Manager to Execute Revised Lease of 111 North Stockton Street, Suite B (Formerly Jazzercise), to P & K Fitness of Lodi (CA)
- C-10 Authorize City Manager to Execute Partial Assignment and Assumption of the Reynolds Ranch Development Agreement from San Joaquin Valley Land Company, LLC to Skinner Ranch Holdings, LP (CA)
- Res. C-11 Adopt Resolution Authorizing Destruction of Certain Citywide Records in Accordance with the Government Code and the City's Records Management Policy (CLK)
- C-12 Set Public Hearing for March 16, 2011, to Approve the Draft 2011/12 Action Plan for the Community Development Block Grant Program (CD)

D. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

E. Comments by the City Council Members on Non-Agenda Items

F. Comments by the City Manager on Non-Agenda Items

G. Public Hearings – None

H. Communications

- H-1 Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission, Lodi Arts Commission, and Site Plan and Architectural Review Committee (CLK)

I. Regular Calendar

- Res. I-1 Adopt Resolution Approving the Cellular Phone Policy (CM)
- I-2 Notice of Cost to Grant Two Years Additional Service Credit Under Government Code Section 20903 (CM)
- I-3 Authorize the City Manager to Execute an Employment Agreement with Ray B. Samuels for Interim Police Chief Services (CM)

J. Ordinances

- Ord. (Adopt) J-1 Adopt Ordinance No. 1843 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Adding Chapter 9.30, 'Medical Marijuana Dispensaries'" (CLK)

K. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Randi Johl, City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Receive Register of Claims through February 10, 2011 in the Total Amount of \$2,531,625.87

MEETING DATE: March 2, 2011

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$2,531,625.87.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$2,531,625.87 through 2/10/11. Also attached is Payroll in the amount of \$1,171,340.74.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

Accounts Payable
Council Report

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Date - 02/16/11

As of Thursday	Fund	Name	Amount
02/10/11	00100	General Fund	782,686.95
	00123	Info Systems Replacement Fund	750.15
	00160	Electric Utility Fund	30,409.36
	00164	Public Benefits Fund	4,186.28
	00170	Waste Water Utility Fund	33,040.07
	00172	Waste Water Capital Reserve	17,811.79
	00180	Water Utility Fund	11,368.08
	00181	Water Utility-Capital Outlay	361,217.39
	00182	IMF Water Facilities	6,523.20
	00210	Library Fund	4,034.16
	00230	Asset Seizure Fund	666.05
	00234	Local Law Enforce Block Grant	181.43
	00235	LPD-Public Safety Prog AB 1913	60.99
	00236	LPD-OTS Grants	4,927.18
	00260	Internal Service/Equip Maint	28,623.48
	00270	Employee Benefits	522,299.90
	00310	Worker's Comp Insurance	45,259.36
	00321	Gas Tax	8,768.35
	00325	Measure K Funds	290.80
	00326	IMF Storm Facilities	37,657.66
	00330	RTIF County/COG	47,283.90
	00332	IMF(Regional) Streets	23,987.19
	00338	IMF-Regional Transportation	46,703.31
	00339	Prop.1B-Local Streets & Roads	105,755.68
	00340	Comm Dev Special Rev Fund	1,975.57
	00345	Community Center	3,818.92
	00346	Recreation Fund	6,705.32
	00447	First Time Homebuyers-FTHB	45.34
	00459	H U D	1,835.80
	00501	Lcr Assessment 95-1	365.40
	01214	Arts in Public Places	60.59
	01217	IMF Parks & Rec Facilities	68,581.30
	01250	Dial-a-Ride/Transportation	158,130.38
	01410	Expendable Trust	31,119.00
Sum			2,397,130.33
	00184	Water PCE-TCE-Settlements	84.00
	00190	Central Plume	134,411.54
Sum			134,495.54
Total Sum			2,531,625.87

Council Report for Payroll

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Date - 02/16/11

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	02/06/11	00100	General Fund	718,487.44
		00160	Electric Utility Fund	154,328.16
		00164	Public Benefits Fund	4,976.05
		00170	Waste Water Utility Fund	102,505.53
		00180	Water Utility Fund	287.84
		00210	Library Fund	29,465.67
		00235	LPD-Public Safety Prog AB 1913	3,158.24
		00260	Internal Service/Equip Maint	19,595.26
		00321	Gas Tax	36,447.89
		00340	Comm Dev Special Rev Fund	22,325.33
		00345	Community Center	24,454.12
		00346	Recreation Fund	48,829.95
		01250	Dial-a-Ride/Transportation	6,479.26
Pay Period Total:				
Sum				1,171,340.74



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) February 15, 2011 (Shirtsleeve Session)
b) February 22, 2011 (Shirtsleeve Session)

MEETING DATE: March 2, 2011

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) February 15, 2011 (Shirtsleeve Session)
b) February 22, 2011 (Shirtsleeve Session)

BACKGROUND INFORMATION: Attached are copies of the subject minutes marked Exhibit A through B.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, FEBRUARY 15, 2011**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, February 15, 2011, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Katzakian, Council Member Nakanishi, Mayor Pro Tempore Mounce, and Mayor Johnson

Absent: None

Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Provide Direction to City Attorney Regarding Drafting Ordinance Prohibiting Smoking Near Entrances, Windows, and Air Inlets to Private Buildings (CA)

City Attorney Schwabauer provided an overview of the potential of drafting an ordinance that prohibits smoking near entrances, windows, and air inlets to private buildings as set forth in the staff report. Specific topics of discussion included citizen inquiry regarding neighbors smoking next to a window near a private entrance, existing laws regarding smoking within 20 feet near a public building, model ordinance dealing with outdoor smoking, and similar ordinances in other cities that focus on outdoor events and recreational facilities.

In response to Mayor Pro Tempore Mounce, Mr. Schwabauer reviewed a list of cities, as set forth in the staff report, that currently have ordinances prohibiting smoking in various areas.

In response to Mayor Pro Tempore Mounce, Mr. Schwabauer stated if the Council was to pursue an ordinance prohibiting smoking within 20 feet of private entrances, exceptions could be carved out for dining and wine and bar establishments.

In response to Council Member Katzakian, Mr. Schwabauer stated currently the City has no restrictions other than public places, which is also state law.

In response to Mayor Pro Tempore Mounce, Mr. Schwabauer stated that, while there may be some complaint enforcement at the beginning through the Police Department, for the most part these types of ordinances are self-enforcing based on societal pressure.

A brief discussion ensued amongst the City Council regarding second hand smoke, restrictions on freedom for those who do and do not smoke, and the effectiveness of posting no smoking signs.

In response to Council Member Hansen, Mr. Schwabauer stated currently a business owner is only cited if it looks like they are actively encouraging smoking and not if they are making a good faith effort to prevent smoking.

In response to Mayor Johnson, Mr. Schwabauer stated the workspace means an outdoor workplace, such as a construction site, where people are assigned to work.

In response to Mayor Johnson, Mr. Schwabauer stated a sidewalk is any public sidewalk within the City.

In response to Council Member Katzakian, Mr. Schwabauer stated smoking restrictions could be placed into covenants and restrictions for a homeowner's association if everyone agreed or when leases expire for a commercial complex.

In response to Mayor Johnson, Mr. Schwabauer stated if an ordinance was considered there would be a public hearing and additional notice and workshops could also be considered.

Randy Snider spoke in favor of drafting an ordinance prohibiting smoking near private building entrances based on recent complaints his management company has received from tenants, his past experience with the citizen initiative that prohibited smoking near public building entrances, and the ineffectiveness of letters and no smoking signs.

Ed Miller spoke in opposition to drafting an ordinance based on his concerns that cigarettes are legal, too much regulation on personal freedoms, and unfunded mandates for business owners.

Myrna Wetzel spoke in support of drafting an ordinance prohibiting smoking near private entrance ways based on her concerns about second and third hand smoke and the unpleasant smell of the smoke for passersby.

Tony Amador spoke in favor of drafting an ordinance that is as restrictive as possible under the law based on his concerns about the health and welfare of citizens subject to second hand smoke.

The City Council provided general direction to draft an ordinance prohibiting smoking near entrances for private buildings along with a menu of other prohibition options for the Council to consider.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:45 a.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, FEBRUARY 22, 2011**

The February 22, 2011, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Approve Plans and Specifications and Authorize Advertisement for Bids for 2011 Streets Crack Sealing Contract

MEETING DATE: March 2, 2011

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve plans and specifications and authorize advertisement for bids for 2011 streets crack sealing contract.

BACKGROUND INFORMATION: This project consists of crack sealing approximately 1,500,000 square feet of various City streets. The primary cause of asphalt failure is water infiltration into the street subgrade. Crack sealing is one of the most cost-effective preventative maintenance practices, but the work can only be performed during the warm summer months. In an effort to seal as much street area as possible over this short timeframe, this work will supplement crack sealing performed by City crews.

The plans and specifications are on file in the Municipal Service Center of the Public Works Department. The planned bid opening date is March 16, 2011, and \$50,000 has already been allocated in the 2010/11 budget.

FISCAL IMPACT: By increasing the crack sealing effort, the useful life of the City streets will be extended.

FUNDING AVAILABLE: This project will be paid for by Measure K Maintenance funds budgeted for FY 2010/11.

Project Estimate: \$50,000

F. Wally Sandelin
Public Works Director

Prepared by Curt Juran, Streets and Drainage Superintendent
FWS/CJ/pmf
cc: Charles E. Swimley, Jr., Deputy Public Works Director – Utilities
Curt Juran, Streets and Drainage Superintendent

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District 2003-1, Fiscal Year 2011/12

MEETING DATE: March 2, 2011

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for maintenance of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2011/12.

BACKGROUND INFORMATION: This project provides for the contract landscape maintenance of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. This contract will cover Zones 1, 2, 5, 6, and 13. Zones 3, 4, 7, 9 through 12 and 14 through 16 do not have landscape to maintain. The current contract is just under \$30,000.

The new contract estimate is anticipated to be less than \$30,000 for 12 months. The maintenance work covered under this contract is limited to the landscape and irrigation improvements along the reverse frontage areas of the subdivisions in the zones covered by the contract. The assessment established for the contract maintenance zones are based on a weekly maintenance schedule.

The specifications are on file in the Public Works Department at the Municipal Service Center. The planned bid opening date is March 22, 2011.

FISCAL IMPACT: The money for this maintenance contract is provided by the various revenue accounts of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

FUNDING AVAILABLE: Funding comes from Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 various revenue accounts.

Project Estimate: \$30,000

F. Wally Sandelin
Public Works Director

Prepared by Curtis Juran, Streets and Drainage Superintendent
FWS/CJ/pmf
cc: Curtis Juran, Streets and Drainage Superintendent
Charlie Swimley, Deputy Public Works Director – Utilities

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Tree Trimming for Fiscal Year 2011/12

MEETING DATE: March 2, 2011

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for tree trimming for Fiscal Year 2011/12.

BACKGROUND INFORMATION: This project would provide for the structural pruning, maintenance trimming, emergency calls, and removal of City trees at various locations throughout the City for the Fiscal Year 2011/12. The objective of this contract is to improve the health of our urban forest and reduce costs associated with this effort.

The purpose of this bid is to secure pricing for miscellaneous tree work which includes crown reductions, mistletoe, removals, and emergency call outs. Recently, much of the annual tree trimming budget was spent on removals and emergency responses due to storm-related damage, reducing the available funding for grid pruning. The contract will be for one year with two options to renew, if mutually agreeable.

The specifications are on file in the Public Works Department. The planned bid opening date is March 22, 2011.

FISCAL IMPACT: Selective tree maintenance should reduce the emergency calls.

FUNDING AVAILABLE: Funds for this project will come from 2011/12 Street Operating (3215036).

Project Estimate: \$50,000

F. Wally Sandelin
Public Works Director

Prepared by Curt Juran, Streets and Drainage Superintendent
FWS/CJ/pmf
cc: Curt Juran, Streets and Drainage Superintendent

APPROVED: _____
Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Curb, Gutter and Sidewalk Replacement Annual Contract for Fiscal Year 2011/12

MEETING DATE: March 2, 2011

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for curb, gutter and sidewalk replacement annual contract for Fiscal Year 2011/12.

BACKGROUND INFORMATION: Curb, gutter and sidewalk replacement is an annual contract administered by the Streets and Drainage Division and is consistent with past practices. This contract is for replacement of miscellaneous concrete work as guided by the sidewalk replacement program and sidewalk inventory. This contract is typically accomplished by issuing work orders in small increments. The prices from this contract are also used to establish costs for work ordered by the City for sidewalk repairs determined to be the property owner's responsibility. Costs for these repairs are reimbursed to the Street fund.

The specifications are on file in the Public Works Department at the Municipal Service Center. The planned bid opening date is March 22, 2011.

FISCAL IMPACT: Should funding for this contract not be made available, it would increase the City's liability exposure and significantly limit necessary maintenance.

FUNDING AVAILABLE: The funds for this contract will be evenly split between Transportation Development Act (TDA) Bike/Ped (1241) and Measure K (325) in the proposed 2011/12 budget. Actual amounts will be consistent with the adopted budget.

Project Estimate: \$100,000

F. Wally Sandelin
Public Works Director

Prepared by Curt Juran, Streets and Drainage Superintendent
FWS/CJ/pmf
cc: Curt Juran, Streets and Drainage Superintendent
Charlie Swimley, Deputy Public Works Director – Utilities

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for 100,000 Feet of Insulated Underground Cable

MEETING DATE: March 2, 2011

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for 100,000 feet of insulated underground cable.

BACKGROUND INFORMATION: This cable is a standard component of the City's electric power network. It will be used for new developments and existing electrical distribution system upgrades and replacements.

Planned projects requiring this cable include the replacement of old underground cables in Grid 56, 57 and various other underground upgrades and maintenance projects throughout the City. The current inventory level is insufficient to meet upcoming needs. The cable specification is available for review at the electric utility office. Anticipated lead time is four to six months for delivery. In order to meet present project requirements and anticipated future needs, staff recommends purchasing 100,000 feet of #1/0 AWG 15kV underground electric cable.

FISCAL IMPACT: Estimated cost is \$220,000

FUNDING: Included in FY 2010/11 Budget Account No. 160.1496 Electric Inventory.

Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Weldat Haile, Senior Power Engineer

EAK/WH/lst

APPROVED: _____
Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Contract for Municipal Service Center (MSC) Shop Decommissioning Project with Diede Construction, of Woodbridge (\$44,675) and Appropriating Funds (\$5,000)

MEETING DATE: March 2, 2011

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute contract for Municipal Service Center (MSC) shop decommissioning project with Diede Construction, of Woodbridge, in the amount of \$44,675 and appropriating funds in the amount of \$5,000.

BACKGROUND INFORMATION: The MSC shop once was used to service City vehicles. With the construction of the new vehicle maintenance building, the shop has been used primarily for storage. This project is needed to make it suitable for other uses. This project consists of removal and disposal of the 2,000-gallon waste-oil underground storage tank and related piping, removal and disposal of four hydraulic lifts, removal and salvage of exhaust recovery system, environmental testing of soils and decontamination rinsing fluid, removal and disposal of demolition debris, backfill, compaction, sub-grade prep, concrete placement, and other incidental and related work.

Plans and specifications for this project were approved on January 19, 2011. The City received the following four bids for this project on February 4, 2011.

Bidder	Location	Bid
Engineer's Estimate		\$45,000.00
Diede Construction	Woodbridge, CA	\$44,675.00
ICS Norcal	Oakland, CA	\$44,888.00
Geocon Consultants	Rancho Cordova, CA	\$53,907.00
Clean Harbors Environmental	West Sacramento, CA	\$125,238.76

The bid received from Diede Construction is fully compliant with the bid documents. Staff recommends Council adopt a resolution authorizing the City Manager to execute a contract for the Municipal Service Center (MSC) shop decommissioning project with Diede Construction, of Woodbridge, and appropriate an additional \$5,000 from Water/Wastewater Capital funds to cover contingencies.

FISCAL IMPACT: This project will increase the usefulness of the building and mitigate potential environmental liability.

APPROVED: _____
Konradt Bartlam, City Manager

Adopt Resolution Authorizing City Manager to Execute Contract for Municipal Service Center (MSC) Shop Decommissioning Project with Diede Construction, of Woodbridge (\$44,675) and Appropriating Funds (\$5,000)
March 2, 2011
Page 2

FUNDING AVAILABLE:	<u>Budgeted FY 2010/11</u>	
	Water Capital Fund (181)	\$15,000
	Wastewater Capital Fund (171)	\$15,000
	Street Measure K Maintenance (325)	\$15,000
	<u>Additional Appropriation</u>	
	Water/Wastewater Capital Funds (181/171)	<u>\$5,000</u>
		\$50,000

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

Prepared by Kathryn Garcia, Compliance Engineer

FWS/KMG/pmf

cc: Deputy Public Works Director – Utilities

**MSC SHOP DECOMMISSIONING SITE WORK
AT MUNICIPAL SERVICE CENTER
1331 SOUTH HAM LANE**

CONTRACT

THIS CONTRACT made by and between the CITY OF LODI, State of California, herein referred to as the "City," and DIEDE CONSTRUCTION, INC., herein referred to as the "Contractor."

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete Contract consists of the following documents, which are filed in the Public Works Department and which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	The July 2002 Edition,
Information to Bidders	Standard Specifications,
General Provisions	State of California,
Special Provisions	Business and Transportation Agency,
Bid Proposal	Department of Transportation
Contract	
Contract Bonds	

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

ARTICLE I - That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City and under the condition expressed in the two bonds bearing even date with these presents and hereunto annexed, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work, furnish all labor and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete in a good workmanlike and substantial manner and to the satisfaction of the City the proposed improvements as shown and described in the Contract Documents which are hereby made a part of the Contract.

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Clauses 65 and 66 General Conditions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time, and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced

**MSC SHOP DECOMMISSIONING SITE WORK
AT MUNICIPAL SERVICE CENTER
1331 SOUTH HAM LANE**

CONTRACT

in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Perform the work necessary to furnish all labor, material, tax, equipment, and services necessary for the construction and completion of the "MSC Shop Decommissioning Site Work, 1331 South Ham Lane" Project and associated improvements. The Project removal of a 2000 gallon Underground Storage Tank, four (4) hydraulic lifts, an exhaust recovery system, and all associated work as described in the project specifications, all in accordance with the specifications and working details and other contract documents now on file with the Director of Public Works, City Hall, 221 W. Pine Street, Lodi.

ITEM NO.	DESCRIPTION	UNIT	TOTAL
1.	Removal & Disposal of 2000 gallon Underground Storage Tank (includes all testing per applicable Regulations)	(LUMP SUM)	<u>\$25,623.00</u>
2.	Removal & Disposal of (4) Hydraulic Lifts (per applicable Regulations)	(LUMP SUM)	<u>\$15,772.00</u>
3.	Removal of Exhaust Recovery System	(LUMP SUM)	<u>\$3,780.00</u>
4.	Salvage of Exhaust Recovery System	(LUMP SUM)	<u>(\$ 500.00)</u>
			<u>\$44,675.00</u>

ARTICLE V - By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE VI - It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the Bid Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE VII - The City is to furnish the necessary rights-of-way and easements and to establish lines and grades for the work as specified under the Special Provisions. All labor or materials not mentioned specifically as being done by the City will be supplied by the Contractor to accomplish the work as outlined in the specifications.

**MSC SHOP DECOMMISSIONING SITE WORK
AT MUNICIPAL SERVICE CENTER
1331 SOUTH HAM LANE**

CONTRACT

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract and to diligently prosecute to completion within **21 CALENDAR DAYS**.

When signing this contract, the contractor agrees that the time of completion for this contract is reasonable and the contractor agrees to pay the city liquidated damages of **\$250.00 per day for each day the work is not completed** beyond the time specified in the preceding paragraph. Contractor agrees that this amount may be deducted from the amount due the contractor under the contract.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date written below.

CONTRACTOR:

CITY OF LODI

By: _____
Konradt Bartlam
City Manager

By: _____

Date: _____

Attest:

Title

Randi Johl, City Clerk

(CORPORATE SEAL)

Approved as to form:

D. Stephen Schwabauer
City Attorney



1. AA# _____
 2. JV# _____

**CITY OF LODI
 APPROPRIATION ADJUSTMENT REQUEST**

TO:	Internal Services Dept. - Budget Division		
3. FROM:	Rebecca Areida-Yadav	5. DATE:	02/10/2011
4. DEPARTMENT/DIVISION:	Public Works/Admin		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW					
	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	171		3205	Fund Balance	\$ 2,500.00
	181		3205	Fund Balance	\$ 2,500.00
B. USE OF FINANCING	171	171095	1825.2250	MSC Shop Decomission	\$ 2,500.00
	181	181095	1825.2250	MSC Shop Decomission	\$ 2,500.00

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

The lowest responsive bid received, fully compliant with the bid documents, totals \$44,675.00 from Diede Construction. The amount budgeted for this project totals \$45,000 (\$15,000 each from Fund #s 181, 171 & 325). To account for contingencies, an additional \$5,000 needs to be appropriated for this project.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager	Date
---	------

Submit completed form to the Budget Division with any required documentation.
 Final approval will be provided in electronic copy format.

RESOLUTION NO. 2011-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
CONTRACT FOR THE MUNICIPAL SERVICE CENTER (MSC)
SHOP DECOMMISSIONING PROJECT AND FURTHER
APPROPRIATING FUNDS

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on February 4, 2011, at 2:00 p.m., for the Municipal Service Center (MSC) Shop Decommissioning Project described in the plans and specifications therefore approved by the City Council on January 19, 2011; and

WHEREAS, said bids have been checked and tabulated and a report thereof filed with the City Manager as follows:

Bidder	Bid
Diède Construction	\$44,675.00
ICS Norcal	\$44,888.00
Geocon Consultants	\$53,907.00
Clean Harbors Environmental	\$125,238.76

WHEREAS, staff recommends awarding the contract for the Municipal Service Center (MSC) Shop Decommissioning Project to the low bidder, Diède Construction, of Woodbridge, California, in the amount of \$44,675.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute the contract for the Municipal Service Center (MSC) Shop Decommissioning Project with the low bidder, Diède Construction, of Woodbridge, California, in the amount of \$44,675; and

BE IT FURTHER RESOLVED that funds in the amount of \$5,000 be appropriated from Water/Wastewater Capital Funds for this project.

Dated: March 2, 2011

=====

I hereby certify that Resolution No. 2011-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2011, by the following vote:

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

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Authorize City Manager to Execute Revised Lease of 111 North Stockton Street, Suite B, (formerly Jazzercise) to P & K Fitness of Lodi

MEETING DATE: March 2, 2011

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Authorized City Manager to execute revised lease of 111 North Stockton Street, Suite B, (formerly Jazzercise) to P & K Fitness of Lodi.

BACKGROUND INFORMATION: Council previously approved a lease with P & K Fitness of Lodi for the operation of a Cross Fit fitness gym in the former Jazzercise facility. The initial lease required P & K Fitness to perform several tenant improvements including: bringing the existing bathroom to current ADA standards, adding a second bathroom, bringing the interior of the facility to current ADA standards and adding two showers and a new hot water heater. After looking closer at the facility, P & K realized it would have to replace the entire sewer line to support the addition of showers and that the remaining improvements would cost significantly more than their original estimate. Because the lease price was based on the prior estimate, and because the shower and hot water heater costs were prohibitive, P & K requests that the lease be amended to strike those tenant improvement requirements.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Stephen Schwabauer
City Attorney

APPROVED: _____
Konradt Bartlam, City Manager

RENTAL AGREEMENT
111 N Stockton Street, Suite B
Lodi, California

THIS AGREEMENT, made and entered into this 17th day of March, 2011 by and between the CITY OF LODI, a municipal corporation, (hereinafter "Owner"), and P & K Fitness of Lodi, a California Limited Liability Company hereinafter ("Tenant").

WITNESSETH:

1. **PROPERTY:** That for and in consideration of the rents to be paid, and the covenants to be faithfully kept and performed by Tenant, Tenant does hereby rent from Owner, the premises located at 111 N. Stockton Street, Suite B, Lodi, California and all improvements thereto (the "Property") for the operation of P & K Fitness of Lodi.
2. **TERM:** The term of this Agreement begins on March 17, 2011 ("Commencement Date") and shall continue until March 17, 2014. Tenant shall have two options to renew this agreement for consecutive two year terms on the terms set forth in this agreement and at the rates set forth in paragraph 3 of this agreement. Both options must be exercised in writing by tenant at least 90 days before the expiration of the then current term.
3. **RENT:** In consideration of this Agreement, Tenant agrees to pay to Owner as rent for the Property the sum amounts set forth below, due and payable by the 1st day of each month, commencing on March 17, 2011. A late charge of \$60 may be assessed for any payment more than 10 days past due. Rental payments shall be directed to the City of Lodi, Attn: Parks & Recreation Department, 125 N. Stockton Street, Lodi, California, 95240, for processing and shall be paid without prior notice or demand to Tenant. Tenant acknowledges that the rent is prorated in acknowledgement of tenant supplied tenant improvements to the property set forth in Paragraph 29. Lease payments shall be waived until the completion of the tenant improvements called for in this Agreement. Lease payments shall be prorated for any partial month after the issuance of the final building permit.

Months 0-24: \$1825.00/month
Months 24-36: \$3650.00/month
Months 36-60: \$4015.00/month (First Option Period)
Months 60-84: \$4380.00/month (Second Option Period)
4. **USE/USE PROHIBITED:** The property shall be used solely for the purpose of carrying on the business of P & K Fitness of Lodi. Tenant shall not use any portion of the Property for purposes other than those specified herein, and no use shall be made or permitted to be made upon the Property, nor acts done, which will increase the existing rate of insurance upon the Property, or cause cancellation of insurance policies covering the Property. Tenant shall not engage in any activities excluded from coverage under its insurance policy on the Property. Tenant shall not conduct or permit any sale by auction on the Property.
5. **ORDINANCES AND STATUES:** It is further understood and agreed by Tenant that Tenant must comply with all present and future laws, ordinances, rules, and regulations promulgated by any governmental authority of competent jurisdiction regulating the type

of business to be conducted on the Property during the term of this Agreement and any extension thereof. Tenant shall use and occupy the Property in a quiet, lawful, and orderly manner. The commencement of pendency of any state or federal court abatement proceeding affecting the use of the Property shall, at the option of the Owner, be deemed a breach hereof.

6. **SIGNS:** Owner reserves the exclusive right to the roof, side and rear walls of the Property. Tenant shall not construct any projecting sign or awning without prior written consent of Owner which consent shall not be unreasonably withheld. It is agreed that Tenant will post "Hours of Operation" signs on the doors of the Property. All signs and locations of signs must be approved by the City of Lodi Parks & Recreation Director. All costs associated with the purchase and installation of signs shall be the responsibility of Tenant.
7. **ABANDONMENT OF PROPERTY:** Tenant shall not vacate or abandon the Property at any time during the term hereof, and if Tenant shall abandon or vacate the Property, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant left upon the Property shall be deemed to be abandoned, at the option of Owner.
8. **TRADE FIXTURES:** Any and all improvements made to the Property during the term hereof shall belong to the Owner, except trade fixtures of the Tenant. Tenant may, upon termination hereof, remove all trade fixtures, but shall repair or pay Owner for all repairs caused by damage to the Property occasioned by the removal of such trade fixtures.
9. **DESTRUCTION OF THE PROPERTY:** In the event of a partial destruction of the Property during the term hereof, from any cause, Owner shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Agreement, except that Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Tenant on the Property. If such repairs cannot be made within sixty (60) days, Owner, at his option, may make the same within a reasonable time, this Agreement continuing in effect with the rent proportionately abated as aforesaid, and in the event that Owner shall not elect to make such repairs which cannot be made within sixty (60) days, this Agreement may be terminated at the option of either party.

In the event that the building in which the Property may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Owner may elect to terminate this Agreement whether the Property be injured or not. A total destruction of the building in which the Property may be situated shall terminate this Rental Agreement.

In the event of any dispute between Owner and Tenant with respect to the provisions hereof, the matter shall be settled by arbitration in such a manner as the parties may agree upon, or if they cannot agree, in accordance with the rules of the American Arbitration Association.

10. **INSOLVENCY:** In the event a receiver is appointed to take over the business of Tenant, or in the event Tenant makes a general assignment for the benefit of creditors, or Tenant takes or suffers any action under any insolvency or bankruptcy act, the same shall constitute breach of this Agreement by Tenant.

11. **REMEDIES OF OWNER ON DEFAULT:** In the event of any breach of this Agreement by Tenant, Owner may, at its option, terminate this Agreement and recover from Tenant: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Owner for all detriment proximately caused by Tenant's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

Owner may, in the alternative, continue this Agreement in effect, as long as Owner does not terminate Tenant's right to possession, and Owner may enforce all his rights and remedies under this Agreement, including the right to recover the rent as it becomes due under this Agreement. If such breach continues, Owner may, at any time thereafter, elect to terminate this Agreement.

Nothing contained herein shall be deemed to limit any other rights or remedies which Owner may have.

12. **RELATIONSHIP OF PARTIES:** It is understood and agreed that the relationship between the parties is that of landlord and tenant and not as a party or agent of Owner. Tenant, shall carry Worker's Compensation Insurance and observe all laws and regulations applicable to employers in the State of California.
13. **BUILDING MAINTENANCE:** Building Maintenance (Janitorial Services) shall be the responsibility of Tenant.
14. **ASSIGNMENT AND SUBLETTING:** Tenant shall not assign this Agreement or sublet any portion of the Property without prior written consent of the Owner, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and, at the option of the Owner, may terminate this Agreement.
15. **ENTRY AND INSPECTION:** Tenant shall permit Owner or Owner's agents to enter upon the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the same.
16. **MAINTENANCE, REPAIRS, ALTERATIONS OR ADDITIONS:** Tenant acknowledges that the Property is in good order and repair, unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the Property in good and safe condition, including plate glass, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the roof, exterior walls, structural foundations, and common areas which shall be maintained by Owner. No repairs, alterations or additions to the Property shall be made without prior written consent of Owner. Prior to the commencement of any substantial repair, improvement, or alteration, Tenant shall give Owner at least two (2) days written notice in order that Owner may post appropriate notices to avoid any liability for liens. Tenant shall not commit any waste upon the Property, or any nuisance or act which may disturb the quiet enjoyment of any tenant of

Owner. Any concerns shall be submitted in writing to the Parks & Recreation Director, City of Lodi, P. O. Box 3006, Lodi, CA 95241.

17. **SURRENDER OF PREMISES:** Tenant shall, at the termination of the Agreement hereby created, or upon the earlier termination hereof for any reason, or upon the extension of the term herein set forth, quit and surrender the Property in good order, condition, and repair, reasonable wear and tear and acts of God or fire excepted.
18. **FEES:** Tenant shall pay all license fees, or other fees or taxes, including possessory interest taxes, levied by any governmental agency which may be imposed upon the business of Tenant or its subtenant conducted upon the Property.

If any of the above charges are assessed against the Property, and because of said assessment, the Owner pays the same, the Owner will have the right to, regardless of the validity of any such levy, demand that Tenant repay to Owner all taxes and other assessments so levied against Owner.

19. **UTILITIES:** Owner agrees that it shall be responsible for the payment of all utilities, including water, wastewater, gas, and electricity. However, Tenant shall reimburse Owner's gas and electricity costs that exceed \$200.00 per month within 30 days of receiving an invoice from the City of Lodi. During the term of this Agreement, and any extension thereof, it is understood and agreed by the parties hereto that Tenant shall be responsible for the installation, maintenance and cost of any telephone lines that are required to operate its business, and solid waste removal, at no cost to Owner.
20. **MECHANIC'S LIEN:** Tenant agrees to keep the Property free from all liens and claims of mechanics, laborers, material suppliers, and others for work done, and material furnished, and Tenant shall not create, or suffer to be created, any lien or encumbrance on the Property.
21. **PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE:** Tenant, at its expense, shall maintain plate glass and public liability insurance including bodily injury and property damage insuring Tenant and Owner with minimum coverage of \$3,000,000 each occurrence. More particularly described as follows:

Tenant agrees to indemnify, defend and save harmless Owner from and against all claims of whatever nature arising from any act, omission, or negligence of Tenant or Tenant's contractors, licensees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused any person, or to the Property of any person, occurring during the term thereof, in or about the Property where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant or Tenant's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs and expenses, including attorney's fees incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

Tenant agrees to maintain in full force during the term hereof a policy of public liability insurance under which Tenant is named as insured, and containing an additional named insured endorsement naming Owner as an additional insured, and under which the insurer agrees to indemnify and hold Tenant and Owner harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or

about the Property, where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant, or Tenant's agents or employees. The minimum limits of such insurance shall be \$1,000,000.00 (One Million Dollars). In addition to the additional named insured endorsement on Owner's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Insurance as is afforded by the endorsement for additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

To the maximum extent permitted by insurance policies which may be owned by Owner or Tenant, Owner and Tenant, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

A duplicate or certificate of said public liability and property damage insurance policy containing the above-stated required endorsements shall be delivered to Owner within ten (10) days after the issuance and each renewal of said policy. This paragraph, and all other provisions of this Agreement, shall apply and be construed as applying to any subtenant of Tenant.

22. **BANKRUPTCY, RECEIVERSHIP, AND INSOLVENCY:** If Tenant should make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or be adjudicated bankrupt or insolvent, or permit a receiver to be appointed to take possession of a substantial portion of its assets or of the premises, and such bankruptcy, insolvency, or receivership proceeding shall not be dismissed within ninety (90) days, then Owner may, without notice or demand, terminate this Agreement and forthwith reenter and repossess the Property, and remove all persons therefrom, and under no circumstances shall this Agreement be assignable or transferable by operation of law.
23. **ATTORNEY'S FEES:** In case suit should be brought for recovery of the Property, or for any sum due hereunder, or because of any act which may arise out of the possession of the Property, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee, the amount of which shall be determined by the court in such suit and added to and become a part of the judgment therein.
24. **WAIVER:** Failure of Owner to insist upon performance of any of the terms or conditions of this Agreement in any one or more instances shall in no event be construed as a waiver or a relinquishment of its right to future performance thereof, and Tenant's obligations to such future performance shall continue in full force and effect. The receipt by Owner of rent, with the knowledge of the breach of this Agreement or condition hereof, shall not be determined to be a waiver of any such breach.
25. **NOTICES:** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Tenant at the premises, or Owner at the address shown below, or at such other places as may be designated by the parties from time to time as provided herein.

OWNER:

TENANT:

Parks & Recreation Director
City of Lodi
P. O. Box 3006
Lodi, California 95241

P & K Fitness of Lodi LLC
5252 Bear Creek Road
Lodi, California 95240

26. **HOLDING OVER:** If applicable under this Agreement, any holding over after the expiration of this Agreement, with the consent of Owner, shall be construed as a month-to-month tenancy at a rental of 110% of the most recent rental rate per month, otherwise in accordance with the terms hereof, as applicable.
27. **TIME:** Time is of the essence of this Rental Agreement.
28. **HEIR, ASSIGNS, SUCCESSORS:** This Rental Agreement is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.
29. **TENANT IMPROVEMENTS:**
- a. **Tenant Improvements.** Tenant Improvements for Building shall be provided for and funded by The Tenant. Construction of Tenant Improvements shall commence upon issuance of a building permit by CITY. Title to all tenant improvements listed in this paragraph shall immediately vest in Owner. Tenant Improvements shall be constructed in similar form and content to The Plan attached to this Lease as and shall include, but not be limited to, the following components:
 - i. Addition of a second bathroom and renovation of existing bathroom to meet current building code requirements, including but not limited to ADA compliance.
 - ii. Tenant shall install interior improvements to bring the facility up to all current ADA accessibility standards.
 - b. **Construction Timeline.** The parties anticipate that Tenant Improvements will be completed within three (3) months of the execution of this Lease, but in no event shall such improvements be completed later than April 30, 2011. Failure to complete construction of Tenant Improvements as set forth above shall be deemed a material breach of this Lease.
 - c. **Title to Improvements:** Immediately upon completion of the Improvements Title thereto shall vest in City. All improvements shall be left in place upon the termination of this Agreement.
30. **OWNER'S LIABILITY:** The term "Owner" as used in this paragraph, shall mean only the owner of the real property. In the event of any transfer of such title or interest, the Owner named herein (or the grantor in case of any subsequent transfers) shall be relieved of all liability related to Owner's obligations to be performed after such transfer. Provided, however, that any funds in the hands of Owner or Grantor at the time of such transfer shall be delivered to Grantee. Owner's aforesaid obligations shall be binding upon Owner's successors and assigns only during their respective periods of ownership.

31. ACCEPTANCE OF THE PROPERTY: Tenant has examined the Property knows the conditions thereof, and accepts possession thereof in its present condition.

32. CONTRACT: This written agreement constitutes the entire agreement between the Tenant and Owner, and no representation or agreement, whether oral or written, unless expressed herein, shall be binding on either Tenant or Owner.

IN WITNESS WHEREOF, Owner and Tenant have executed this Agreement on the date and year first above written.

“OWNER”

“TENANT”

CITY OF LODI, a municipal corporation

P & K Fitness of Lodi LLC

Konradt Bartlam
City Manager

By _____

ATTEST:

Randi Johl
City Clerk

Dated: _____

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney





**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Authorize City Manager to Execute Partial Assignment and Assumption of the Reynolds Ranch Development Agreement from San Joaquin Valley Land Company, LLC to Skinner Ranch Holdings, LP

MEETING DATE: March 2, 2011 City Council Meeting

PREPARED BY: City Attorney

RECOMMENDED ACTION: Authorize City Manager to Execute Partial Assignment and Assumption of the Reynolds Ranch Development Agreement from San Joaquin Valley Land Company, LLC to Skinner Ranch Holdings, LP.

BACKGROUND INFORMATION: San Joaquin Valley Land Company transferred ownership of the Home Depot site to Skinner Ranch Holdings, which will be Home Depots' landlord, but did not yet assign the attendant rights and obligations of the Reynolds Ranch Development Agreement. Home Depot's counsel requested that landlord Skinner secure the rights and obligations of the Reynolds Ranch Development Agreement for Home Depot's protection. The attached assignment is only partial: it only assigns the Home Depot site rights and obligations and it does not relieve San Joaquin Valley Land Company of its Development Agreement obligations. Because the assignment merely adds an additional party to enforce the Development Agreement obligations against, staff recommends that Council authorize the City Manager to execute the partial assignment.

FISCAL IMPACT: N/A

D. Stephen Schwabauer
City Attorney

APPROVED: _____
Konradt Bartlam, City Manager

OFFICIAL BUSINESS

Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (hereinafter, the "Agreement") is entered into this ____ day of _____, 2011, by and between San Joaquin Valley Land Company, LLC, a California limited liability company (hereinafter "Developer"), and Skinner Ranch Holdings, LP, a California limited partnership (hereinafter "Assignee").

RECITALS

1. On September 6, 2006, the City of Lodi and Developer entered into that certain agreement entitled "Development Agreement Reynolds Ranch" (the "Development Agreement"). Pursuant to the Development Agreement, Developer agreed to develop certain property more particularly described in the Development Agreement (the "Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of San Joaquin County on December 26, 2006, as Instrument No. 2006-268372.

2. Prior to the date of this Agreement, Assignee has acquired a portion of the Subject Property as more particularly identified and described in Exhibit A-1, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

3. Effective as of the date Assignee acquired the Assigned Parcel (the "Effective Date"), Developer desires to assign, and Assignee desires to assume, all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of the Effective Date, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Except as expressly assigned to and assumed by other parties by other instruments (including without limitation that certain Assignment and Assumption of Development Agreement and Grant of Easement by and between Developer, the City and California Physicians' Service dba Blue Shield of California recorded on June 26, 2007 as Instrument Number 2007-117829 in the Official Records of San Joaquin County [the "Official Records"] and that certain Assignment and Assumption of Development Agreement by and between Developer, the City and Costco Wholesale Corporation, recorded on August 31, 2010 as Instrument Number 2010-114461 in the Official Records [collectively, the "Other Instruments"]), Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Effective as the Effective Date, Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. San Joaquin Valley Land Company, LLC, shall not be released from any of its burdens and obligations under the Development Agreement. After the Effective Date, San Joaquin Valley Land Company, LLC shall continue to remain obligated to perform all covenants, conditions, obligations and duties required to be performed by Landowner under the Development Agreement, and shall not be relieved of any such performance thereunder as a result of this Agreement.

4. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

5. The Notice Address described in Section 29 of the Development Agreement for the Assignee with respect to the Assigned Parcel shall be:

ASSIGNEE:

SKINNER RANCH HOLDINGS, LP
1420 S. Mills Avenue, Suite K
Lodi, CA 95242

6. Developer agrees to indemnify, defend (with counsel reasonably acceptable to Assignee) and hold harmless Assignee, its officers, directors, members, partners, employees, agents, representatives, successors and assigns from and against any costs (including, without limitation, reasonable attorneys costs and fees), claims, damages or causes of action arising out of or resulting from the failure of Developer to comply with or perform the covenants, conditions, agreements, duties and obligations of Developer under the Development Agreement

or in connection with any claims for indemnification by the City under Section 25 of the Development Agreement with respect to (a) the Assigned Parcel and arising prior to the Effective Date, and (b) the Subject Property arising at any time, except with respect to the Assigned Parcel on or after the Effective Date and except to the extent assigned to other parties by other instruments (including, without limitation, those covenants, conditions, agreements, duties and obligations assigned pursuant to the Other Instruments).

7. Assignee agrees to indemnify, defend (with counsel reasonably acceptable to Developer) and hold harmless Developer, its officers, directors, members, partners, employees, agents, representatives, successors and assigns from and against any costs (including, without limitation, reasonable attorneys costs and fees), claims, damages or causes of action arising out of or resulting from the failure of Assignee to comply with or perform the covenants, conditions, agreements, duties and obligations of Assignee under the Development Agreement or in connection with any claims for indemnification by the City under Section 25 of the Development Agreement with respect to the Assigned Parcel and arising on or after the Effective Date.

8. Miscellaneous.

- A. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- B. Successor and Assigns. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- C. Attorneys' Fees. If any party hereto brings or commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages by reason of an alleged breach of this Agreement), the prevailing party in such action shall be entitled to recover from the non-prevailing party all costs and expenses of litigation, including reasonable attorneys' fees.
- D. Incorporation of Exhibits. Each exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.
- E. Counterparts. This Agreement may be signed in identical counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DEVELOPER:

ASSIGNEE:

SAN JOAQUIN VALLEY LAND COMPANY, LLC

SKINNER RANCH HOLDINGS, L.P., a California limited partnership

By: _____
Name: Dale N. Gillespie
Title: Managing Member

By: Morse Skinner Properties, LLC
a California limited liability company
Its General Partner

By: _____
Print Name: _____
Title: _____

By its signature below, the City consents to the assignment to and assumption by Assignee of the Development Agreement upon the terms set forth herein.

CITY

CITY OF LODI

Form of Agreement hereby approved:

By: _____
Name: Konradt Bartlam
Title: City Manager

By: _____
Name: D. Stephen Schwabauer
Title: City Attorney 

Dated: _____, 2011

Dated: _____, 2011

STATE OF)
) ss:
COUNTY OF)

On _____, 2011 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

[Seal]

STATE OF)
) ss:
COUNTY OF)

On _____, 2011 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who 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.

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WITNESS my hand and official seal.

Signature of Notary Public

[Seal]

STATE OF)
) ss:
COUNTY OF)

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WITNESS my hand and official seal.

Signature of Notary Public

[Seal]

STATE OF)
) ss:
COUNTY OF)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

[Seal]

EXHIBIT A-1

LEGAL DESCRIPTION OF ASSIGNED PARCEL

Parcels 2-14 of Parcel Map entitled "Parcel Map Reynolds Ranch Subdivision No. 08-P-03," recorded on August 31, 2010 in the City of Lodi, County of San Joaquin, State of California, in Book 25 of Parcel Maps, Page 86, in the Official Records of San Joaquin County, California.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing Destruction of Certain Citywide Records in Accordance with the Government Code and the City's Records Management Policy

MEETING DATE: March 2, 2011

PREPARED BY: Randi Johl, City Clerk

RECOMMENDED ACTION: Adopt resolution authorizing the destruction of certain Citywide records in accordance with the Government Code and the City's Records Management Policy.

BACKGROUND INFORMATION: Section 34090 of the California Government Code provides for the destruction of certain City records with the approval of the legislative body by resolution and the written consent of the City Attorney. The City Clerk's office coordinated and compiled a listing of Citywide records to be destroyed from the various departments pursuant to the City's Records Management Program and Policy (2007), which specifically provides for the annual destruction of said records in accordance with the Secretary of State's Records Retention Guidelines.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not applicable.

Randi Johl
City Clerk

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

RESOLUTION NO. 2011-_____

A RESOLUTION OF THE LODI CITY
COUNCIL AUTHORIZING DESTRUCTION OF
CERTAIN CITYWIDE RECORDS

=====

WHEREAS, in accordance with Government Code Section 34090, the City Clerk and City Attorney have filed written consent to the destruction of certain Citywide records as specifically set forth in the attached inventory marked as Exhibit A, and thereby made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that:

1. The records heretofore identified are no longer required.
2. The Lodi City Council finds that the City Clerk and City Attorney have given written consent to the destruction of the records inventoried on Exhibit A attached hereto and the destruction of those records is hereby authorized.

Dated: March 2, 2011

=====

I hereby certify that Resolution No. 2011-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2011, by the following vote:

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

RANDI JOHL
City Clerk

AUTHORITY TO DESTROY OBSOLETE RECORDS

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Internal Services	Date: 1/21/2011	Total No. of Pages:	Proposed Destruction Date: TBD
Division: Financial Services Accounting	Prepared By: Cory Wadlow	Signature: C. Wadlow	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Next Step/Leave Balance	2008-09	Basement	
Payroll Edit Registers	"	"	
Payroll Journal Detail	"	"	
Payroll Integrity Reports	"	"	
Payroll Voucher Detail	"	"	
Payroll Check Registers	"	"	
Wage Attachment Report	"	"	
Overtime Cards	2006-07	"	
Accounts Payable Final Post	2008-09	"	
Accounts Payable Payment Register	"	"	
Accounts Payable Payment Group	"	"	
Accounts Payable Cash Requirements	"	"	
Accounts Payable Posting Edit	"	"	
Accounts Payable Edit Report	"	"	
Collectors Daily Reports	"	"	
Misc Journal Entries	2005-06	"	
Wire Transfers	2006-07	"	
Inventory	2008-09	"	

Department Head:  Date: 1/21/11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney:  Date: _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

City of Lodi

Destruction Completed By:

Printed Name

Signature

Date

Attachment A – Form 4 (Authority to Destroy Records)

**Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.*

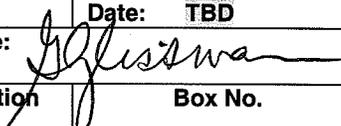
AUTHORITY TO DESTROY OBSOLETE RECORDS

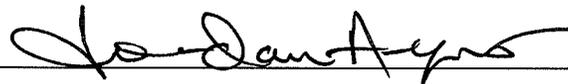
RECEIVED

2011 FEB -1 AM 10:30

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

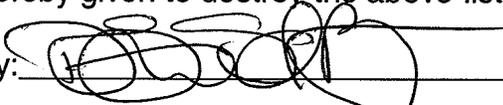
Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Internal Services	Date: 1/31/2/11	Total No. of Pages:	Proposed Destruction Date: TBD
Division: Finance	Prepared By: Gail Glissman	Signature: 	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Business Tax Applications	2005	Finance Basement	
CIS Daily Postings & Journals	July 2004 – June 2005	Finance Basement	
Service Orders/Utility Contract	July 2004 – June 2005	Finance Basement	
Correspondence	July 2006 – June 2007	Finance Basement	
Deposit Refunds	July 2004 – June 2005	Finance Basement	
Enforcement Technology Parking Balancing Reports	July 2004 – June 2005	Finance Basement	
Lodi Downtown Business Partnership Collections	July 2004 – June 2005	Finance Basement	
Miscellaneous Receivables	July 2004 – June 2005	Finance Basement	
Returned Checks	July 2006 – June 2007	Finance Basement	
Pet License Applications	July 2004 – June 2005	Finance Basement	

Department Head:  Date: 2/1/11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney:  Date: _____

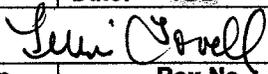
Destruction Completed By: _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

AUTHORITY TO DESTROY OBSOLETE RECORDS

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

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Department: Parks and Recreation	Date: February 2, 2011	Total No. of Pages:	Proposed Destruction Date: TBD
Division: Parks and Recreation	Prepared By: Terri Lovell	Signature: 	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Daily Revenue Recap Forms	2007 & Prior	Recreation	
Register Receipts	2005	Recreation	
Reduced Fee Program App.	2002 & Prior	Recreation	
Returned Check Files	2002 & Prior	Recreation	
Facility Rental Permits	2007 & Prior	Recreation	
P/T Employee Timecards	2004 & Prior	Recreation	
Personnel Action Forms	2005 & Prior	Recreation	
Maintenance Reports	2006 & Prior	Parks	
Parks Dept. Invoices	2006 & Prior	Parks	
Expenditure Reports - Blakely Pool	2006 & Prior	Parks	
Overtime Reports	2006 & Prior	Parks	
Playground Safety Checks	2006 & Prior	Parks	
Purchases-Purchasing Dept.	2006 & Prior	Parks	
Purchase Orders	2006 & Prior	Parks	
Purchase Requests	2006 & Prior	Parks	
Unscheduled Leave Report	2006 & Prior	Parks	
Vandalism Report	2006 & Prior	Parks	
Parks Crew Mtg./Safety Training	2006 & Prior	Parks	
Ooh Aah Festival Cost Report	2006 & Prior	Parks	
Pesticide Applicators Workshop	2006 & Prior	Parks	
Probation Department	2006 & Prior	Parks	
Restricted Materials Permit	2006 & Prior	Parks	
CA River Parkways Grant	2006 & Prior	Parks	
Carson Landscape Maxicom	2006 & Prior	Parks	
Personnel Cell Phone Usage	2006 & Prior	Parks	
Copier Bidding Information	2005 & Prior	Parks	
Alamo Alarm	2005 & Prior	Parks	

Attachment A – Form 4 (Authority to Destroy Records)

**Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.*

RECEIVED
2011 FEB -7 AM 9:46

AUTHORITY TO DESTROY OBSOLETE RECORDS

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

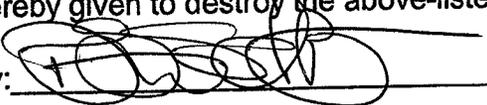
Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: <u>HSS</u>	Date: <u>1/31/11</u>	Total No. of Pages:	Proposed Destruction Date: <u>TBD</u>
Division: <u>Admin</u>	Prepared By: <u>MD</u>	Signature: _____	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
<u>Payroll Spreadsheets</u>	<u>2006 prior</u>	<u>upstairs conference room file cabinet</u>	
<u>Employee Leave Slips</u>	<u>2007 - prior</u>		
<u>Separated/terminated employee files</u>	<u>2008 - prior</u>		
<u>Part time cards</u>	<u>2008 - prior</u>		
<u>Alarm logs /schedules</u>	<u>2006 - prior</u>		
<u>Box office sales reports</u>	<u>2005 - prior</u>		
<u>Community Service (failure to appear, work completed)</u>	<u>2006 - prior</u>		
<u>Accounts Payable Invoices</u>	<u>2005 - prior</u>		

Department Head:  Date: 2/2/11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney:  Date: _____

Destruction Completed By: _____

Printed Name	Signature	Date
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*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

2004, 2008, 07, 06

AUTHORITY TO DESTROY OBSOLETE RECORDS

2011 FEB 7 AM 9:46

CITY CLERK

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: HSS/Rentals	Date: 1/31/11	Total No. of Pages: 5,000 +	Proposed Destruction Date: TBD
Division:	Prepared By: Crystal Manzo	Signature:	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Rentals contracts agreements for facility room rentals invoices for room rentals	2007 prior	HSS/Under Pool	
Grants for Lodi Arts Project Fund	2004 - prior		

Department Head: [Signature] Date: 2/2/11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: [Signature] Date: _____

Destruction Completed By: _____

Printed Name	Signature	Date
--------------	-----------	------

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

2/3/11 sent to Randi

RECEIVED

AUTHORITY TO DESTROY OBSOLETE RECORDS

SEP 7 AM 9:47
CITY CLERK
OFFICE

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

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Department: Community Center	Date: Feb. 1, 2011	Total No. of Pages:	Proposed Destruction Date: TBD
Division: Division of Arts & Culture	Prepared By: Diane Amaral	Signature: <i>Wendy C. Amaral</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Charter School Invoices	June 2006 - 2009	HSS office	1
Deposits Recap	2006 - 2009	HSS office	2
Agree. Release of Liab.	2008 - 2009	HSS office	3
Activity Reg. Forms	Jan 2010 - June	HSS office	3
Ticket Sales Report	2006 - 2008	HSS office	3
Actera Reports	2006 - 2008	HSS office	3
Registration/City Kids	2007 - 2009	HSS office	4
Refunds, Trans. Adjust.	2005 - 2009	HSS office	4
Instructor Cl. Vouchers	2008 - 2009	HSS office	4
Security Invoices	2004 only	HSS office	4
Instructor Files	—	HSS office	5

Department Head: *Sam Rindler* Date: 5/2/11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: *[Signature]* Date: _____

Destruction Completed By: _____

Printed Name _____ Signature _____ Date _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

AUTHORITY TO DESTROY OBSOLETE RECORDS

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Department: Library	Date: 1/31/2011	Total No. of Pages: 1	Proposed Destruction Date: TBD
Division:	Prepared By:	Signature:	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Payroll Records	1/2006 - 12/2006	Library business office	
Payroll Records	1/2007 - 12/2007	Library business office	
Community Room reservation forms	1/2006 - 12/2006	Library business office	
Community Room reservation forms	1/2007 - 12/2007	Library business office	
Community Room reservation forms	1/2008 - 12/2008	Library business office	
Vendor Invoices - copies	7/2007 - 6/2008	Library business office	
Vendor Invoices - copies	7/2008 - 6/2009	Library business office	
Private Sector Financial Docs	1979 - 2004	Library business office	

Department Head: Nancy Martinez Date: 1/31/11
 City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: [Signature] Date: _____

Destruction Completed By: _____

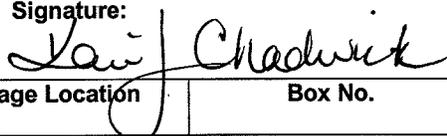
Printed Name _____ Signature _____ Date _____

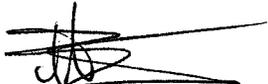
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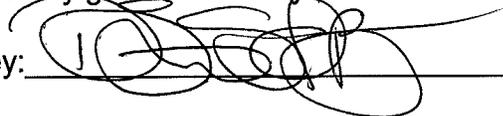
Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Community Development	Date: 1/21/11	Total No. of Pages: ?	Proposed Destruction Date: TBD
Division: Building, Neighborhood Services, and Planning	Prepared By: Kari Chadwick	Signature: 	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Copies of:			
Invoices / Claim Vouchers / Settlements	Prior to July 2008	City Hall – CDD	CDD - 01
General Office Supply Requests	Prior to July 2008	City Hall – CDD	CDD - 01
Deposit Receipts	Prior to July 2008	City Hall – CDD	CDD - 01
Monthly Building Reports	Prior to July 2008	City Hall – CDD	CDD - 01

Department Head:  Date: 1-21-11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney:  Date: _____

Destruction Completed By: _____

Printed Name	Signature	Date
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**Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.*

AUTHORITY TO DESTROY OBSOLETE RECORDS

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Department: Public Works	Date: 1/20/11	Total No. of Pages: 3	Proposed Destruction Date: 3/31/11
Division: Administration/Engineering	Prepared By: Pam Farris	Signature: <i>P. Farris</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Minority Business Program (MBE) City of Lodi (January 1994 – December 1999)	1994-1999	City Hall	1
Minority Business Program (MBE) City of Lodi (January 1984 – December 1993)	1984-1993	City Hall	1
Utility Coordinating Committee 1999-2000	1999-2000	City Hall	1
Budget Review 1993-1994	1993-1994	City Hall	1
Operating Budget 1997-1998	1997-1998	City Hall	1
Operating Budget 1996-1997	1996-1997	City Hall	1
Operating Budget 1995-1996	1995-1996	City Hall	1
Special Allocations FY 1999/2000	1999-2000	City Hall	1
Special Allocations FY 1998/99	1998-1999	City Hall	1
Special Allocations FY 1997/98	1997-1998	City Hall	1
Special Allocations FY 1996/97	1996-1997	City Hall	1
Special Allocations FY 1995/96	1995-1996	City Hall	1
Special Allocations 1991-1995	1991-1995	City Hall	1
Claims 2000-2001	2000-2001	City Hall	2
UPS/FedEx Bills 1996-2000	1996-2000	City Hall	2
Finance Department Memos 1994-1997	1994-1997	City Hall	2
Engineering Statements 2001	2001	City Hall	2
General Correspondence (Publications) 1980-2002	1980-2002	City Hall	2
Worker Injury Reports 2000	2000	City Hall	3
First Aid Kits	1990-2001	City Hall	3
Monthly Safety/Housekeeping Inspection Checklists	1994	City Hall	3
Tailgate Meetings 1999-2001	1999-2001	City Hall	3
Education/Training 1999-2001	1999-2001	City Hall	3
Sidewalk Replacement/ Replacement of Damaged Sidewalks FY 1998/1999	1998-1999	City Hall	3
Sidewalk Replacement/ Replacement of Damaged Sidewalks FY 1999/2000	1999-2000	City Hall	3
Street Light Project (Various Arterials and Collectors)	1985-2003	City Hall	4

Attachment A – Form 4 (Authority to Destroy Records)

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

City of Lodi

Armory Park Ball Diamond Renovation	2004	City Hall	4
Blakely Park Improvements	1989-1995	City Hall	4
Century Park, Salas Park & Hutchins Street Square Playground Improvements	1999-2001	City Hall	4
Katzakian Park Improvements, 2735 W. Turner Road	2000-2002	City Hall	4
Katzakian Park Improvements, 2735 W. Turner Road – Certified Payroll & Preliminary Notices	2001-2002	City Hall	4
Lodi Lake Park Improvements	1988-1995	City Hall	5
Outdoor Skate Park Facility	1999-2003	City Hall	5
Parks & Recreation Department Restroom Accessibility Retrofit, 125 N. Stockton St.	1999-2000	City Hall	5
Peterson Park Restroom, 199 Evergreen Drive	1999-2001	City Hall	5
2001/2002 Handicap Ramp Retrofit Project – Various Locations	2001-2002	City Hall	5
2000 Handicap Ramp Retrofit Project	2000-2001	City Hall	5
2001 Sidewalk Repair Program & Miscellaneous Concrete Work	2001-2002	City Hall	5
2000 Sidewalk Repair Program & Miscellaneous Concrete Work	2000-2001	City Hall	5
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Mills Avenue, Vine Street & Ham Lane Asphalt Concrete Resurfacing	2001-2002	City Hall	6
Pine Street Overlay Project, Ham Lane – Church Street	2005-2006	City Hall	6
Pine Street Sidewalk Repair Project, School Street – Alley W/Sacramento St.	2003-2005	City Hall	6
Elevated Water Tank Exterior Surface Recoating	2005-2006	City Hall	7
Mills Avenue Crossing at Woodbridge Irrigation Canal (Millsbridge Phase I)	1997-1999	City Hall	7
Well 3R Drilling, 144 S. Rose Street (SW Corner of Hutchins Street Square)	1992-1993	City Hall	7
Well 25 Pump & Motor	1994-1995	City Hall	7
Well 26 Enclosure, 1020 Bridgetowne Dr. (Katzakian Park)	2002-2003	City Hall	7
Well 26 Pump & Motor, 1020 Bridgetowne Dr. (Katzakian Park)	2001	City Hall	7
Asbestos Abatement, Demolition, Clearing & Grading, 214 W. Lockeford Street	2001	City Hall	7
Fire Station No. 4, 180 N. Lower Sacramento Road, Certified Payroll & Preliminary Notices (2 files)	2001-2003	City Hall	7
Fire Station No. 4, 180 N. Lower Sacramento Road, Preconstruction Bid Correspondence, Bids, Post Bid Correspondence (Fehr & Peers)	2001-2005	City Hall	8
Fire Station No. 4, 180 N. Lower Sacramento Road, Design & Billings (George Miers)	1999-2002	City Hall	8
Fire Station No. 3 Air Conditioning Replacement	2003	City Hall	9
Fire Station No. 3 Re-Roof, 2141 S. Ham Lane	2002-2003	City Hall	9
Information Technology (for Y2K)	1996-1998	City Hall	9
City Hall Remodel & Expansion Plans & Data	1986-1988	City Hall	9
Civic Center Improvements (Phase 2) City Hall Remodel	1994-1996	City Hall	9

Attachment A – Form 4 (Authority to Destroy Records)

**Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.*

AUTHORITY TO DESTROY OBSOLETE RECORDS

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Department: Fire	Date: 1/21/2011	Total No. of Pages: <u>2</u> #1 of 2	Proposed Destruction Date: TBD
Division: Administration	Prepared By: Linda Hoover	Signature: <i>Linda Hoover</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Acct's. Payable Invoices/Copies	7/1/07 – 6/30/08	Fire Admin.	1
Claim Vouchers/Copies	7/1/07 – 6/30/08	Fire Admin.	2
Correspondence	7/1/07 – 6/30/08	Fire Admin.	2
Expendable Trust/Copies	7/1/07 – 6/30/08	Fire Admin.	2
Expenditure/Transaction Analysis Reports/Copies	7/1/07 – 6/30/08	Fire Admin.	2
FLSA/Copies	7/1/07 – 6/30/08	Fire Admin.	2
Leave Balances/Copies	7/2/07 – 6/29/08	Fire Admin.	2
Minutes/Copies	7/1/07 – 6/30/08	Fire Admin.	2
Performance Incentive Bonus/Copies	2007	Fire Admin.	2
Release of Care Against Medical Advice/Copies	7/1/02 – 6/30/07	Fire Admin.	2
Strike Team Reimbursements	2007	Fire Admin.	2
Duplicate Subpoena of Records	2008 & Prior	Fire Admin.	2
Supply Order Requests/Copies	7/1/07 – 6/30/08	Fire Admin.	2
Time-Off Requests	2007	Fire Admin.	2
Traffic Safety Grant	4/1/03 – 9/30/03	Fire Admin.	2

Department Head: *John J. Kelly*
 City Clerk: _____

Date: 1/24/11
 Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: *[Signature]*
 Destruction Completed By: _____

Date: _____
 Date: _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

AUTHORITY TO DESTROY OBSOLETE RECORDS

The below-listed department records have been retained in accordance with the City's Records Management Program Policy and Procedures and with applicable federal and state laws as set forth in the City of Lodi Retention Schedules. In accordance with the City's Records Management Program, with the consent of the Department Head, and upon written approval of the City Clerk and City Attorney, these records will be properly destroyed/disposed of.

Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Police	Date: January 31, 2011	Total No. of Pages:	Proposed Destruction Date: March, 2011
Division: Investigations	Prepared By: Lt. Chris Piombo	Signature: <i>C. Piombo</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Asset Forfeiture Investigations	+2 years from closure date	Special Investigations cabinet	
Informant Files	+10 years from termination date	SIU cabinet	
Registration Files, Arson, Sex, and Narcotics	March 2011 March 2011 Deceased Registrants	290 P.C. program manager file cabinet - SIU	
Field Interview Cards	+ 2 years from closure date	SIU filing cabinet	

Department Head: *Gary Benuzza* Date: 01-24-11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: *[Signature]* Date: _____

Destruction Completed By: _____

Printed Name _____ Signature _____ Date _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

AUTHORITY TO DESTROY OBSOLETE RECORDS

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Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Police	Date: January 31, 2011	Total No. of Pages:	Proposed Destruction Date: March, 2011
Division: Administration	Prepared By: Julie Wall	Signature: <i>Julie Wall</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
Employee Time Cards and related payroll records	+3 years from closure date (prior to 2008)	Investigations Storage Room	

Department Head: *Gary Benincasa* Date: 01-24-11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: *[Signature]* Date: _____

Destruction Completed By: _____

Printed Name _____ Signature _____ Date _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.

AUTHORITY TO DESTROY OBSOLETE RECORDS

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Note: Documents will be reviewed for historical value and, if applicable, retained in the archives. Documents involved in litigation or pending audit will not be destroyed.

Department: Police	Date: January 31, 2011	Total No. of Pages:	Proposed Destruction Date: March, 2011
Division: Community Improvement	Prepared By: J. Aldred	Signature: <i>Jamie Aldred</i>	
Record Series Title (Same as Retention Schedule)	Dates of Records (From and To)	Storage Location	Box No.
<i>ABANDONED VEHICLES</i>	<i>+ 2 YEARS FROM</i>	<i>CILU CABINETS</i>	<i>1, 2, 3, 4</i>
<i>ABATEMENT CASES</i>	<i>CLOSURE DATE Old 2003 to 2008</i>		
<i>CLOSED CODE ENFORCEMENT CASES</i>	<i>+ 2 YEARS FROM</i>	<i>CILU CABINETS</i>	
	<i>CLOSURE DATE Old 1996 - 2009</i>		<i>5, & 6</i>

Department Head: *Gary Benimare* Date: 01-25-11

City Clerk: _____ Date: _____

Consent is hereby given to destroy the above-listed records:

*City Attorney: *[Signature]* Date: _____

Destruction Completed By: _____

Printed Name _____ Signature _____ Date _____

*Signature certifies a City Attorney assessment that records are not relevant to existing or anticipated litigation.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set a Public Hearing for March 16, 2011, to approve the Draft 2011/12 Action Plan for the Community Development Block Grant Program.

MEETING DATE: March 2, 2011

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set a public hearing for March 16, 2011, to approve the Draft 2011/12 Action Plan for the Community Development Block Grant Program.

BACKGROUND INFORMATION: A public hearing is required as part of the federal requirements of the Community Development Block Grant (CDBG) program.

In May 2009, the Council approved the 2009-14 CDBG Consolidated Plan, a five-year plan for identifying and addressing community needs. The Consolidated Plan contains an assessment that defines housing and community development needs for low-income persons and families, as well as a variety of special needs populations, including homeless, elderly, and disabled persons. The needs assessment is based on Census data, other available data sources, and input from community residents and service providers. The second component of the Consolidated Plan is a strategic plan, which lays out the City's method for expending CDBG funds over the five-year period and sets goals and priorities for each type of eligible activity.

The Action Plan is the Consolidated Plan's annual implementing document and provides a detailed description of each activity proposed for the fiscal year, as well as the City's CDBG budget and goals for the fiscal year.

Funding Allocation

Based upon the budget proposed by the President, the City is anticipating a funding allocation of approximately \$750,000, a seven percent reduction from last year. However, Congress is currently taking a closer look at a number of federal grant programs, including CDBG, so the final award amount could be reduced even further. The final allocation amounts are expected to be released in March by the U.S. Department of Housing and Urban Development (HUD), which manages the CDBG program.

Next Steps

Upon completion of the initial public hearing, the Draft Action Plan will be available for public review and comment and will be brought back for final approval on April 20, 2011. The adopted Action Plan document must be submitted to HUD no later than May 15, 2011 in order to receive funding beginning July 1, 2011. City staff is actively working on the draft Action Plan document. The application process for CDBG funding lasted from January 5 through February 9, 2011. A summary of the applications received during that time period will be provided during a Shirtsleeve Session scheduled for March 8, 2011.

APPROVED: _____
Konradt Bartlam, City Manager

FISCAL IMPACT: The Action Plan document is being completed as a pre-award activity that will be reimbursed through the City's CDBG administrative allocation from HUD.

FUNDING AVAILABLE: N/A

Konradt Bartlam
Community Development Director

KB/jw

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission, Lodi Arts Commission, and Site Plan and Architectural Review Committee

MEETING DATE: March 2, 2011

PREPARED BY: City Clerk

RECOMMENDED ACTION: Direct the City Clerk to post for expiring terms and vacancies on the Greater Lodi Area Youth Commission, Lodi Arts Commission, and Site Plan and Architectural Review Committee.

BACKGROUND INFORMATION: Several terms are due to expire shortly. In addition, the City Clerk's Office was notified of a resignation on the Site Plan and Architectural Review Committee. Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. Therefore, it is recommended that the City Council direct the City Clerk to post for the expiring terms and vacancies shown below.

Greater Lodi Area Youth Commission

ADULT ADVISORS:

Nicole Grauman	Term to expire May 31, 2011
Joseph Price	Term to expire May 31, 2011

STUDENT MEMBERS:

Deyanira Nava	Term to expire May 31, 2011
Mandy Majidian	Term to expire May 31, 2011
Derek Schatz	Term to expire May 31, 2011
Jason Larkin	Term to expire May 31, 2011
Ranjot Basram	Term to expire May 31, 2012

Lodi Arts Commission

One Vacancy	Term to expire July 1, 2012
One Vacancy	Term to expire July 1, 2013

Site Plan and Architectural Review Committee

Reyes Jaramillo	Term to expire January 1, 2012
-----------------	--------------------------------

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

RJ/JMR

Randi Johl
City Clerk

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Cellular Phone Policy

MEETING DATE: March 2, 2011

PREPARED BY: Communications Specialist

RECOMMENDED ACTION: Adopt a resolution approving the Cellular Phone Policy.

BACKGROUND INFORMATION: In December, the City Manager's office began a comprehensive review of the use, cost and distribution of City cell phones to explore potential cost savings and other benefits of a new cell phone policy.

The analysis found that more than half of City employees had City-paid cell phones that were billed according to more than 20 plans, many phones were seldom used (some not at all) while incurring monthly charges. In addition, there were no explicit guidelines or limitations on their use. Some departments have been vigilant about recovering the cost of personal phone calls or text messages that exceeded plan amounts, and others have not.

As a result, the City has myriad calling plans, texting plans, push-to-talk features that range not only by department, but by employee. Many calling plans did not meet the employees' needs, and provided features that exceeded employees' job requirements. Many employees have used their City-issued phones for routine personal matters, often at an additional cost to the City, including for personal needs while on vacation.

The City spent \$131,105 on cell phones in Fiscal Year 2009/10. As of January, the City had 201 cell phones. That month, the City Manager ordered department directors to notify their employees that City-paid cell phones should be used only for City business. City cell phone bills dropped by approximately 15 percent in the first month. In addition, staff has worked with Verizon Wireless to reduce the monthly data charge for computers in public safety vehicles for an annual savings of approximately \$3,500.

Since beginning the review of the City's cell phone use, the City Manager's office has reviewed dozens of other cell phone policies and audit reports of other government agencies and has met with employees about their cell phone use and needs. As part of the process of developing the policy, employees were asked to participate in a cell phone preference survey on the City's intranet.

The result is a comprehensive cell phone policy, a draft of which is included as Exhibit A (final will be presented at the Council meeting).

Adopting the attached resolution will lead to better understanding of the rules, expectations and responsibilities for using a City-owned cell phone. More specifically, this policy will:

- Reduce City costs.
- Require a checklist justification before issuing a cell phone to an employee.
- Create a stipend plan (based on the actual cost) that will allow employees whose job duties require a cell phone to receive compensation for using his/her personal phone for business use. The initial stipend will be \$25 a month for cell phones and \$50 a month for smart phones.

APPROVED: _____
Konradt Bartlam, City Manager

- Limit use of City-paid cell phones to City business, with exceptions for personal emergencies and the incidental personal call.
- Require employees to review their monthly invoices and reimburse the City for personal calls or state they did not make personal calls on their City-owned cell phone.

FISCAL IMPACT: Savings of an unknown amount. Costs will be reduced by limiting the number of City phones, migrating some plans to consumption-based billing, requiring reimbursement for personal use and having fewer City phones as employees choose stipends over City-paid devices.

FUNDING AVAILABLE: Not applicable.

Jordan Ayers, Deputy City Manager

Jeff Hood
Communications Specialist

Attachments: Resolution
Draft Cellular Phone Policy (Exhibit A)
Cell Phone Authorization Form
Reimbursement Form

RESOLUTION NO. 2011-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE CELLULAR PHONE POLICY

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the City of Lodi Cellular Phone Policy, as shown on Exhibit A attached hereto; and

BE IT FURTHER RESOLVED that this policy and procedure amendment shall become effective March 2, 2011.

Dated: March 2, 2011

=====

I hereby certify that Resolution No. 2011-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2011, by the following vote:

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

RANDI JOHL
City Clerk

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : CELLULAR PHONE USE – Policy

DATE: : MARCH 2, 2011

SECTION: :

REFERENCE: : ADMINISTRATIVE MEMORANDUM

SECTION 1: PURPOSE

The purpose of this policy is to establish guidelines and criteria for cellular phone and wireless communication devices used by City employees in order to contain costs, ensure departmental and personal responsibility and ensure proper use of communication devices.

SECTION 2: DEFINITIONS

- A. **Business Use:** Work-related tasks required to perform City-assigned duties.
- B. **Cellular Phone:** The phone, adapter, battery pack and other accessory equipment specific to phone used for City business purposes.
- C. **Smart phone:** Device that combines hardware, software and wireless connectivity, offering complete email, messaging and organizing, in addition to wireless telephone service provided through a cellular phone.

SECTION 3: POLICY

- A.
 - 1. Cellular phones and smart phones may be issued to City staff based upon an analysis and justification taking into account cost, efficiency, alternative communication methods, and enhanced job performance. Each department director is eligible to receive a City-owned smart phone. Department directors shall determine which persons will require cellular phones or smart phones for business use. Sufficient justification exists for assignment of cellular phone (or smart phone) service when the director determines that the employee's business use involves:
 - a. Wide mobility and simultaneous access to the communications network; or
 - b. Timely, business critical two-way communication for which there is no reasonable alternative technology; or
 - c. Emergency support and back up from a mobile environment; or
 - d. Special circumstances necessary for the efficient and effective operation of City business.
 - 2. Department directors shall be responsible for determining and documenting the initial and ongoing business need for the devices used in their departments. Employees who

spend at least 80 percent of their time at a fixed work station are not eligible for a cellular phone unless they meet one of the qualifications listed above.

B. Communication devices may be City-Owned or Employee-Owned.

1. If a City-Owned device, the City will be responsible for paying all costs under the plan for business use. Personal use is not allowed, except for incidental purposes (such as emergencies, unforeseen issues relating to dependent care, etc.). These calls should be kept to a minimum, with all other personal business conducted on an employee-owned cell phone.

For anything other than occasional incidental use, employees shall reimburse the City at a rate of 10 cents per minute for minutes used, if the monthly bill does not exceed the plan allowance, or the actual cost, whichever is higher. This does not apply to calls outside the monthly minute allowance that are not billed by the carrier, although these calls should be limited to incidental use as well. The employee shall also reimburse the City for personal use of other phone features, such as texting or add-on services, at a per minute/per use rate established on an annual basis by the Deputy City Manager or the actual cost, whichever is higher. The established rates are intended to reimburse the City for the personal use share of the base billing charge, even if the personal-use minutes are within the plan's monthly minute allowance. Reimbursement shall be made using the *Cellular Telephone Use – Reimbursement for Personal Use* form.

Additional charges incurred for personal use of City-Owned devices, including roaming, long distance, over minute/messaging allowance due to personal use, etc. will be the full responsibility of the employee in addition to the per minute rate. The responsible department director shall ensure timely reimbursement of costs for personal use.

- a. Employees assigned a voice-only phone will be placed on no more than a 200-minute local share plan with free in-network mobile-to-mobile calling, or a per-minute consumption plan. Employees assigned a smart phone will be assigned to the plan with the fewest minutes allowed to qualify for a data plan, as well as free in-network mobile-to-mobile calling.
- b. Texting will be blocked on all phones unless otherwise justified to the department director. If approved, the most cost-effective solution – either per-text charge or low-cost texting plan – will be determined by the department director in consultation with the Information Systems Manager.
- c. On an as-needed basis, department directors may place employees on a plan with additional minutes with the consent of the Deputy City Manager.
- d. Phones that receive little to no use on a regular basis, but are intended to provide alternative communications in the event of emergencies or alarms, shall be placed on per-minute consumption plan.

2. a. If an Employee-Owned device, the City shall provide a monthly cellular stipend through the payroll system to an eligible employee in an amount no greater than 50 percent of the monthly minimum retail contract available for local government employees from major cellular companies that serve the region. If the City cost for an employee's cellular service is less than the stipend, the employee is not eligible for a stipend. The monthly stipend amount for qualifying cellular phones, smart phones or data plans shall be reviewed and set annually by the Deputy City Manager.
 - b. An employee whose job duties require around-the-clock or remote email access via "smart phone" is eligible to receive a monthly data stipend if the Employee-Owned smart phone has a mobile operating system that synchronizes automatically with his or her City email account. The data stipend is intended to cover phone-related taxes and a portion of the out-of-pocket costs an employee may incur in acquiring the phone. The Information Systems Manager shall determine what smart phones qualify for the smart phone stipend.
 - c. In the event an employee who is assigned a City-Owned device elects to use an Employee-Owned device, the City stipend will only be permitted if relinquishing the phone does not carry a financial penalty to the City. If the City is required to pay a penalty to the cell phone provider for early contract termination, the penalty amount shall be divided by the projected employee stipend to determine the number of months before the employee may receive the stipend.
 - d. Eligible employees are required to maintain an active cellular phone account for as long as they are receiving a stipend. Employees must show proof of an existing contract when applying for the stipend, annually or upon contract renewal, or at any time by the Deputy City Manager or department director. In no case shall the stipend exceed an employee's cost. Prepaid phones do not qualify for a stipend.
3. In the event an employee deemed eligible for a City-Owned device declines to accept the device and declines to meet eligibility requirements for an Employee-Owned device stipend, such as proof of a cellular contract, the employee may submit reimbursement claims to his/her supervisor for business use of the personal cell phone. The reimbursement rate shall equal the actual cost or a per-minute charge equal to the monthly plan minute allowance divided by the base charges, including tax, up to \$10 per month. No reimbursement will be made for calls that do not incur actual charges or count against the monthly minutes allotment, such as during nights/weekends or mobile-to-mobile. Reimbursements are not available to employees receiving a stipend for an Employee-Owned device or to an employee with a City-Owned device, except in cases where the City-Owned device is inoperable. Reimbursement claims must include call details.

- C. All City-Owned devices and services shall be purchased in coordination with the Information Systems Division using the State of California Wireless Contract or a lower-cost contract. The Information Systems Division will set device, calling plan, data plan, security and service standards in coordination with department directors.
- D. Calling plans and, if applicable and approved, other features such as data access, messaging, push-to-talk, etc., are to be at a level appropriate for the employee's position to conduct city related business as determined by department directors.
- E. Cell phones should not be selected as an alternative to other means of communication when such alternatives would provide adequate but less costly service to the City. This includes the use of land line phones, radios, etc.
- F. The state of the art of cellular phone technology is rapidly changing and a great many varied packages and options are available. It is the desire of the City to standardize the purchase of communication devices as much as possible so as to have the fewest number of models in use. Such standardization will minimize the need for training and familiarization with various devices.
- G. Employees receiving a stipend or reimbursement for business-related calls on a personal cellular phone are required to make their cellular number available to their department directors and other City staff as determined by their immediate supervisors. In addition, for those employees expected to report to the City's Emergency Operations Center, their cellular phone number shall be provided to the City's Emergency Services Coordinator. Any change to an employee's personal cellular phone number is to be reported to his/her immediate supervisor within 24 hours of the change.
- H. With the exception of scheduled breaks, personal calls should not be made during work hours.
- I. Employees and departmental personnel shall not give out cellular phone numbers for everyday business use unless an exception is justified.
- J. Employees shall use desktop telephones rather than cellular phones to access their city voice mailbox whenever possible.
- K. Employees shall exercise due diligence to protect City-Owned equipment from loss, theft or damage. Should the device be lost, stolen or damaged, the employee's supervisor and department director is to be notified immediately and a police report completed in the case of theft.
- L. Invoices of City-Owned devices will be regularly analyzed to determine if the plans are cost-effective and free from personal use.

SECTION 4:

PROCEDURES

A. Approval process

1. For City-Owned Devices, the department director shall complete the attached *Cellular Telephone Authorization Form* and submit to the Information Systems Division for device and plan purchase. The attached form identifies the user, the business need for the device (and data services, if applicable) and the proposed device plan and vendor. The Deputy City Manager may review justification forms for adequacy and refer requests back to the department director. The City Manager shall approve all exceptions to this policy's limits on plans, services and features for department directors.
2. Information Systems will not purchase Employee-Owned devices. Employees requesting a stipend shall obtain department director approval and submit one copy of the *Cellular Telephone Authorization Form* to the Finance Division Payroll section along with a copy to Information Systems. The attached form identifies the user and justification of the business need for the device (and data services, if applicable). In addition, a *Personnel Action Form* shall be submitted to Payroll specifying the amount of the stipend.

Information Systems will notify the employee designated to receive a City-Owned cell phone when the device is ready for pick-up. The phone will be issued with a battery, wall charger, belt clip and instruction manual. The employee will be issued copies of this policy and any operational instructions pursuant to this policy for his/her records. The employee will be required to sign the Cell Phone Procedures Memorandum for receipt of this device and accessories, and certify that he/she has received this Policy. If employment is interrupted by extended sick or annual leave in excess of 45 calendar days, employees or their supervisors must notify Information Systems so that phone service can be suspended while the employee is not available for duty.

Employees not assigned a smart phone will be assigned to either a per-minute billing plan or a 200-minute monthly plan with free mobile-to-mobile calling to other City-Owned phones, unless the Department head justifies a greater number of minutes on the *Cellular Telephone Authorization Form*. The maximum price of the selected phone shall be determined annually by the Deputy City Manager. Employees assigned a smart phone will receive the minimum monthly plan as required by the network provider in order to receive a data plan, with a minimum of 200 minutes. The maximum unsubsidized price of the smart phone shall be determined annually by the Deputy City Manager, who also shall establish the maximum upfront cost of cellular phones and smart phones purchased with one-year contracts. The City will not purchase phones with contracts longer than one year. Department heads requesting an exception for Department head use must receive City Manager approval. All other requests for exceptions must be authorized by the Department head and the Deputy City Manager.

- B. 1. Eligibility Criteria: The following criteria will be used to determine the necessity of issuing a cellular communication device to an employee or as a pooled department phone:
- b. Employee is in the field more than 20% of his/her workday and needs to be readily available to other employees, officials or the public where the use of a two-way radio is impractical or not cost effective; or
 - c. Employee's normal duties require communicating with other employees, officials or the public outside regular work hours on a consistent basis; or
 - d. A cellular phone would provide necessary telephone access where no telephone services otherwise exists and where it is not practical or cost effective to install land line services; or
 - e. A cellular phone is needed for the safety of staff or the public.
2. Criteria for add-on features (data, messaging, push-to-talk, etc.)
- a. Employee is in need of accessing email or the internet while away from their office or outside normal working hours due to time sensitive or urgent matters on a consistent basis; or
 - b. Use of messaging (text messaging and/or picture messaging) or push-to-talk features are the most economical means of communicating in the course of performing duties in terms of both dollar savings and staff time savings.
- G. The fewest number of City accounts will be utilized in order to gain the greatest benefit of shared plan minutes. The Deputy City Manager or his/her designee will approve for payment the master account, utilizing business units indicated on *Cellular Telephone Authorization* forms. Copies of individual invoices will be forwarded to departments for review along with *Cellular Telephone Services - Reimbursement for Personal Use* forms. Employees issued cellular phone devices will have 30 days from department receipt to complete, certify and return the *Cellular Telephone Services - Reimbursement for Personal Use* form along with any applicable reimbursement to the Finance Division.
- H. Upon employee separation or when a previously determined need no longer exists, the Department director shall complete a *Cellular Telephone Authorization* form requesting termination of services or stipend. City-issued equipment assigned to the employee shall be returned with the completed form to the Information Systems Division. In the event the stipend is terminated, the Department director shall return the completed form to payroll.

**CITY OF LODI
CELLULAR TELEPHONE AUTHORIZATION FORM**

Check all that apply:	<input type="checkbox"/> New request	<input type="checkbox"/> Reauthorization	<input type="checkbox"/> Termination	<input type="checkbox"/> New stipend
	<input type="checkbox"/> Employee Issued Cellular Telephone	<input type="checkbox"/> Pooled Cellular Telephone		<input type="checkbox"/> End stipend

INSTRUCTIONS

1. Employee must complete **Section A and B** (if applicable) and forward to Department Director
2. Department Director to complete **Section C**. Forward original to Information Systems Division; copy to employee.

A. EMPLOYEE, EQUIPMENT & PLAN INFORMATION	
Employee Name:	Department:
Employee Number:	Cellular Phone Number (if applicable):
City issued cellular telephone being requested: <input type="checkbox"/> Standard Cellular Telephone <input type="checkbox"/> Cellular Telephone with Push-to-Talk capabilities <input type="checkbox"/> Cellular Telephone with data capabilities	Cellular phone stipend (attach copy of recent bill or contract) <input type="checkbox"/> Standard Cellular Telephone (\$25/month) <input type="checkbox"/> Cellular Telephone with data capabilities (\$50/month)

B. REPLACEMENT ORDER	
Reason for Replacement:	Date of Incident: Date of Police Report:
I acknowledge that I have read the City of Lodi Cellular Telephone Policy. I understand that the City of Lodi is not responsible for any personal cellular telephone contract and/or any personal financial obligation. I agree to comply with all the requirements contained in the Policy, including completion of a monthly <i>Cellular Telephone Services - Reimbursement for Personal Use</i> form (for City-issued phone only) and understand that a breach of these terms may result in the loss of privilege or other disciplinary action. I understand payroll taxes on a stipend will be withheld from my paycheck and the amount of the stipend will be included on the year-end W-2. The stipend does not constitute an increase in base pay and will not be included in the calculation of pay or benefit increases.	
Employee Signature:	Date:

C. JUSTIFICATION (To be completed by Department Director) Circle estimated monthly usage and check all that apply:	
Cellular Phone Minutes: Under 200 200 400 Other or stipend_____	Text Messaging (send/receive):
Data Plan Megabytes:	Picture Messaging (send/receive):
<input type="checkbox"/> 1. Cellular telephone improves public or employee safety. <input type="checkbox"/> 2. City personnel whose job responsibilities clearly dictate the need for cellular communication. <input type="checkbox"/> 3. City personnel who must be available to receive and place time sensitive calls. <input type="checkbox"/> 4. Cellular telephone enhances the operational effectiveness and efficiency of City personnel. <input type="checkbox"/> 5. DATA Plan/Text and/or Picture Messaging is necessary to regularly send and receive time sensitive communication remotely. If employee is other than Executive Management, attach a memo with the justification for a data plan. <input type="checkbox"/> 6. End stipend	
Expenditure coding (Business unit):	Department Director Authorization: Date:
Deputy City Manager signature (if required) Date:	

D. ACTION TAKEN (To be completed by Information Systems Division for City-issued cell phone)	
<input type="checkbox"/> 1. Cellular telephone issued to employee Phone: Plan(s)/ Vendor:	<input type="checkbox"/> 3. Cellular telephone returned/disconnected
<input type="checkbox"/> 2. Pool cellular telephone issued to department Phone: Plan(s)/ Vendor:	<input type="checkbox"/> 4. Pool cellular telephone returned/disconnected
Information Systems Division:	Date:

CITY OF LODI
Cellular Telephone Services - Reimbursement for Personal Use

Instruction: Highlight personal calls on monthly invoice, complete sections below as applicable and return to the Information Systems Division along with any due reimbursement within 30 days of department receipt.

Employee: _____ Cellular number: _____

Period of use: _____ Business unit to credit: _____

Voice Usage Incoming/Outgoing	Text Messaging Send/Receive	Picture Messaging Send/Receive	No personal use
10¢ per minute or actual cost, whichever is higher	5¢ or actual cost, whichever is higher	25¢ each	<input type="checkbox"/>
Minutes:	Texts:	Picture Texts:	
Reimbursement	Reimbursement	Reimbursement	
\$	\$	\$	

Additional reimbursements (roaming, long distance, directory assistance, etc.) \$ _____
 (If roaming charges are city-related, attached documentation showing out of area conference, etc.)

Total reimbursement enclosed: \$ _____

I have reviewed the attached invoice relating to the city issued cellular communications device assigned to me for any and all personal use thereof. I certify that I have identified all such personal use to include both phone and data uses and that said reimbursement is herein enclosed.

Employee signature: _____ Date: _____

CITY OF LODI
Cellular Telephone Services - Reimbursement for Personal Use

Instruction: Highlight personal calls on monthly invoice, complete sections below as applicable and return to the Information Systems Division along with any due reimbursement within 30 days of department receipt.

Employee: _____ Cellular number: _____

Period of use: _____ Business unit to credit: _____

Voice Usage Incoming/Outgoing	Text Messaging Send/Receive	Picture Messaging Send/Receive	No personal use
10¢ per minute or actual cost, whichever is higher	5¢ or actual cost, whichever is higher	25¢ each	<input type="checkbox"/>
Minutes:	Texts:	Picture Texts:	
Reimbursement	Reimbursement	Reimbursement	
\$	\$		

Additional reimbursements (roaming, long distance, directory assistance, etc.) \$ _____
 (If roaming charges are city-related, attached documentation showing out of area conference, etc.)

Total reimbursement enclosed: \$ _____

I have reviewed the attached invoice relating to the city issued cellular communications device assigned to me for any and all personal use thereof. I certify that I have identified all such personal use to include both phone and data uses and that said reimbursement is herein enclosed.

Employee signature: _____ Date: _____



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Cost to Grant Two Years Additional Service Credit Under Government Code Section 20903.

MEETING DATE: March 2, 2011

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Cost to grant two years additional service credit under Government Code Section 20903.

BACKGROUND INFORMATION: The CalPERS two year additional service credit program, as established under California Government Code Section 20903, allows the City (as part of a budget reduction process) to offer a retirement incentive of two years service credit to employees. The current PERS contract allows the City to offer the program to Miscellaneous and Safety employees. The program requires that participating employees be at least fifty (50) years of age, have five (5) years of service credit with PERS, and retire within a specified period of time as identified by the City. The intended effect of offering this incentive is an overall reduction in the workforce.

Government Code Section 7507 requires that the costs to provide this benefit as stated in Attachment A be made public at a public meeting at least two weeks prior to City Council adoption of the Resolution. This communication serves as that public notice. **Note:** Although Attachment A includes the classifications staff is recommending for the additional service credit, we anticipate the cost to be significantly lower as not all employees within these classifications will be offered – and accept – the two years additional service credit retirement option.

As stated earlier, the cost of the program must be made public for a minimum of two weeks. At the March 16, 2011 Council meeting, staff will present the resolution adopting the two years service credit purchase for those employees who will be offered this retirement option.

As a result of the previous three (3) service credit offers, the City has saved approximately \$2.7 million in employee salary and benefits. Additionally, on average it takes the City four (4) months to recoup the cost of offering the two years additional service credit.

FISCAL IMPACT: The cost of this benefit will be amortized over twenty (20) years and included in the City's CalPERS employer contribution rate beginning in FY 2012/2013.

FUNDING AVAILABLE: Not applicable.

Dean Gualco, Human Resources Manager

APPROVED: _____
Konradt Bartlam, City Manager

**TWO YEARS ADDITIONAL SERVICE CREDIT
Section 20903**

ATTACHMENT A

Estimated Employer Cost

Classification	Name	Annual Pay Rate	Cost Factor	PRSA* Yes or No	No PRSA	COLA 3%, 4%, 5%	Additional Employer Contributions
Accountant II	Lourdes Bondoc	\$ 69,982.33	0.56	Yes		No	\$ 39,190.10
Administrative Clerk - PD	Susan Mora	\$ 37,439.44	0.56	Yes		No	\$ 20,966.09
Administrative Secretary - PD	Sandra Meyers	\$ 49,800.81	0.47	Yes		No	\$ 23,406.38
Administrative Secretary - PW(Wastewater)	Diana Gonzales	\$ 49,800.85	0.57	Yes		No	\$ 28,386.48
Dispatch Supervisor	Debra Hammonds	\$ 70,451.57	0.56	Yes		No	\$ 39,452.88
Finance Technician	Gail Glissman	\$ 60,064.16	0.47	Yes		No	\$ 28,230.16
Fire Engineer	Michael Faught	\$ 75,018.00	0.77	No	0.95	No	\$ 54,875.67
Fire Engineer	John Heinrich	\$ 75,018.00	0.77	No	0.95	No	\$ 54,875.67
Fleet and Facilities Manager	Dennis Callahan	\$ 85,019.45	0.56	Yes		No	\$ 47,610.89
Information Systems Specialist	Dale Taylor	\$ 56,818.44	0.47	Yes		No	\$ 26,704.67
Legal Secretary	Peggy Nicolini	\$ 59,055.35	0.47	Yes		No	\$ 27,756.01
Librarian II	Behjat Kerdegari	\$ 65,902.50	0.57	Yes		No	\$ 37,564.43
Librarian II	Sandra S. Smith	\$ 65,902.50	0.56	Yes		No	\$ 36,905.40
Park Maintenance Worker II	James Bosch	\$ 44,207.26	0.47	Yes		No	\$ 20,777.41
Park Maintenance Worker II	Jorge Estrella	\$ 44,207.26	0.53	Yes		No	\$ 23,429.85
Park Maintenance Worker III	Pete Melendez	\$ 48,629.39	0.47	Yes		No	\$ 22,855.81
Park Maintenance Worker III	Daniel Tarnasky	\$ 48,629.39	0.47	Yes		No	\$ 22,855.81
Park Superintendent	Steve Dutra	\$ 85,027.42	0.56	Yes		No	\$ 47,615.36
Park Supervisor	Timothy McGeorge	\$ 61,643.09	0.56	Yes		No	\$ 34,520.13
Park Supervisor	Duane Wright	\$ 61,643.09	0.56	Yes		No	\$ 34,520.13
Purchasing Technician	Sherry Moroz	\$ 47,878.64	0.47	Yes		No	\$ 22,502.96
Senior Police Administrative Clerk	Margie Martin	\$ 43,594.61	0.56	Yes		No	\$ 24,412.98
Senior Police Administrative Clerk	Julie Wall	\$ 43,594.61	0.47	Yes		No	\$ 20,489.47
Sr. Civil Engineer	Wes Fujitani	\$ 95,660.37	0.56	Yes		No	\$ 53,569.81
Sr. Engineering Technician	Rick Kiri	\$ 70,076.11	0.56	Yes		No	\$ 39,242.62
Sr. Facilities Maintenance Worker	Tom Elhard	\$ 53,599.03	0.56	Yes		No	\$ 30,015.46
Streets & Drainage Superintendent	Curt Juran	\$ 89,278.80	0.56	Yes		No	\$ 49,996.13
Supervising Accountant	Coriene Wadlow	\$ 82,372.07	0.56	Yes		No	\$ 46,128.36
Welder/Mechanic	Ken Gruszie	\$ 53,205.94	0.57	Yes		No	\$ 30,327.39

Salary Savings: \$ 1,793,520.48

Estimated Increase in Employer Contribution:
(Based on \$22,904,740 annual payroll for Misc. & Fire)

0.00326185

*PRSA - Post Retirement Survivor Allowance

Actual Annual Cost: \$ 68,861.63



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Authorize the City Manager to Execute an Employment Agreement with Ray B. Samuels for Interim Police Chief Services

MEETING DATE: March 2, 2011

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize the City Manager to execute an employment agreement with Ray B. Samuels for Interim Police Chief Services.

BACKGROUND INFORMATION: As the City Council is aware, the City has a vacant Police Chief position. The current interim will retire effective February 26th. In order to provide management of the department during the recruitment process, I am recommending that the City Council concur with my selection of Ray B. Samuels as the interim Police Chief until such time that a permanent Chief is selected. A copy of the proposed employment agreement is attached.

Mr. Samuels has over 35 years of law enforcement experience. He retired in 2008 as the Police Chief in Newark, CA and was most recently an interim Chief in Menlo Park while they went through the recruitment process.

FISCAL IMPACT: No cost in excess of the current budget.

FUNDING AVAILABLE: \$7,200.00 bi-weekly.

Konradt Bartlam
City Manager

Attachment

APPROVED: _____
Konradt Bartlam, City Manager

TEMPORARY EMPLOYMENT AGREEMENT

This Agreement is made and entered into as of March 3, 2011, by and between the City of Lodi, a municipal corporation, hereinafter called "City" and Ray B. Samuels, hereinafter called "Employee" both of whom agree as follows:

RECITALS:

It is the desire of the City to retain the services of Employee on an interim basis to perform the functions of the Police Chief.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. GENERAL:

City hereby agrees to employ Employee as the Interim Police Chief of the City starting March 3, 2011 and Employee agrees to perform the functions and duties the City Manager shall from time to time assign to him.

2. HOURS OF WORK:

Employee has discretion as to his work schedule but must devote an average minimum of 40 hours per week to the job.

3. COMPENSATION:

City agrees to pay Employee during the term of the Agreement a salary of \$90.00 per hour (\$7,200 paid biweekly).

4. BENEFITS:

As a temporary employee, Employee shall not be entitled to any benefits set forth in the Executive Management Statement of Benefits including but not limited to PERS retirement, sick leave, vacation, administrative leave, health insurance, deferred compensation, or life insurance. Employee acknowledges that his compensation is set higher than the City's regular Executive Management Employees as compensation for the waiver of benefits.

5. TERMINATION:

- (a) Termination by Employee - In the event Employee terminates this contract with City, (s)he shall give City at least twenty-one (21) days advance written notice and shall be entitled to all earned compensation.
- (b) Termination by City – Employee's service shall be at will. The City Manager may terminate Employee at any time, with or without cause. Moreover, this agreement shall automatically terminate upon the hiring of a permanent Police Chief. Employee shall be paid for all hours worked through the date of termination.

6. MODIFICATIONS:

No modification of this agreement shall be valid unless said modification is in writing and signed by both parties.

7. CONFLICT OF INTEREST:

Employee shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to his City employment. Employee is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

IN WITNESS WHEREOF, the City Manager of the City of Lodi has signed this Agreement and Employee has signed and executed this Agreement as of the day and year first above written.

CITY OF LODI, a municipal corporation:

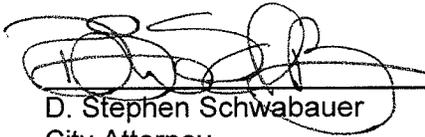
EMPLOYEE:

By: _____
Konradt Bartlam
City Manager
Attest:

Ray B. Samuels

Randi Johl
City Clerk

Approved as to Form:



D. Stephen Schwabauer
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1843 Entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Adding Chapter 9.30, ‘Medical Marijuana Dispensaries’”

MEETING DATE: March 2, 2011

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1843.

BACKGROUND INFORMATION: Ordinance No. 1843 entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Adding Chapter 9.30, ‘Medical Marijuana Dispensaries,’” was introduced at the regular City Council meeting of February 16, 2011.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov’t Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov’t Code § 36937.**
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmr

Attachment

APPROVED: _____
Konradt Bartlam, City Manager

ORDINANCE NO. 1843

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING LODI MUNICIPAL CODE
TITLE 9 – PUBLIC PEACE, MORALS, AND WELFARE –
BY ADDING CHAPTER 9.30, “MEDICAL MARIJUANA
DISPENSARIES”

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by adding Chapter 9.30, “Medical Marijuana Dispensaries,” to read as follows:

CHAPTER 9.30

MEDICAL MARIJUANA DISPENSARIES

SECTIONS:

- 9.30.010 Definitions
- 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited
- 9.30.030 Public Nuisance
- 9.30.040 Civil Penalties

Section 9.30.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

- A. “Medical Marijuana” is marijuana authorized in strict compliance with Health and Safety Code Section 11362.5, et seq.
- B. “Medical Marijuana Dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is cultivated or by any means made available to, distributed by, or distributed to two (2) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver in strict accordance with Health and Safety Code Sections 11362.5, et seq., and 11362.7, et seq.

A medical marijuana dispensary shall not include the following uses, so long as such uses comply with this code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.

4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
5. A hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

C. "Person with an identification card" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

D. "Primary caregiver" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

E. "Qualified patient" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

Section 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited.

No person shall establish, operate, or permit the establishment or operation of a medical marijuana dispensary in or upon any premises in the City of Lodi.

Section 9.30.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 9.30 shall be; and hereby is declared to be a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731.

Section 9.30.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 9.30, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.10 of this code against any person or entity that violates this Chapter 9.30. In any civil action brought pursuant to this Chapter 9.30, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.

SECTION 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 2nd day of March, 2011.

BOB JOHNSON
Mayor

Attest:

RANDI JOHL, City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1843 was introduced at a regular meeting of the City Council of the City of Lodi held February 16, 2011, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held March 2, 2011, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1843 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:
D. STEPHEN SCHWABAUER
City Attorney, City of Lodi

By _____
JANICE D. MAGDICH
Deputy City Attorney